

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE
AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.29134 of 2019
and WMP No.34366 of 2019

V. Packiaraj

.. Petitioner

vs

1. The Chairman,
Tamil Nadu Public Service Commission,
VOC Street, Park Town, Chennai-600 003.
2. The Secretary,
Tamil Nadu Public Service Commission,
VOC Street, Park Town,
Chennai - 600 003.
3. The Principal Secretary,
Government of Tamil Nadu,
Department of Home,
Secretariat,
Fort St. George,
Chennai.
4. The Registrar General,
High Court of Judicature at Madras

(R.3 and R.4 impleaded as per Order
dated 04.12.2019 in WMP No.34358
of 2019)

.. Respondents

Prayer in WP 29134 of 2019 : To direct the respondents to permit the petitioner to submit the application for the Notification No. 25 of 2019 / dated 9.09.2019 for the recruitment to the post of Civil Judge in Tamil Nadu State Judicial Service in any mode and accept the same and permit the Petitioner to participate in all stages of the recruitment process.

For petitioner : Mr.M. Purushothaman
For R.1 & R.2 : M/s C.N.G. Niraimathi
For R.3 : Mr.R. Udhayakumar
AGP
For R.4 : Mr.B. Vijay

ORDER

(made by The Hon'ble Chief Justice)

Heard learned counsel for the petitioner and perused the amendment application filed.

2. The petitioner admittedly has become over-age as per the existing Rules for appearing in the Examination for the post of Civil Judge.

3. The contention of the petitioner is that he being of the physically handicapped category, should be granted relaxation in the upper age limit keeping in view the law laid down by the Apex Court in the case of Pradip Kumar Maity vs Chinmoy Kumar Bhunia and Other reported in (2013) 11 SCC 122, the provisions of Section 34(3) of Rights of Persons with Disabilities Act, 2016 and Section 64 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 read with Government Order No.704 dated 15.04.1964.

4. The contention is that the non-applicability of Section 64 as per Item No.9 in the Schedule of the Tamil Nadu State Judicial Service (Cadre and Recruitment Rules) 2007, amended upto 2016 runs counter to the provisions of Section 34 of Rights of Persons with Disabilities Act, 2016 and is also contrary to Section 64 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 read with the Government Order No.704 dated 15.04.1964.

5. We find that the writ petition or even the amendment application does not seek to challenge the validity of entry No.9 of Tamil Nadu State Judicial Service (Cadre and Recruitment Rules), 2007. We are of the opinion that unless the validity of the same is questioned, the issue raised cannot be gone into.

6. Accordingly, learned counsel for the petitioner prays that he may be permitted to withdraw the writ petition with liberty to file a better writ petition raising an appropriate challenge.

7. In view of the above, the writ petition is dismissed as withdrawn with the aforesaid liberty. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

To Sub Assistant Registrar

1. The Chairman,
Tamil Nadu Public Service Commission,
VOC Street, Park Town, Chennai-600 003.
2. The Secretary,
Tamil Nadu Public Service Commission,
VOC Street, Park Town,
Chennai - 600 003.
3. The Principal Secretary,
Government of Tamil Nadu,
Department of Home,
Secretariat,
Fort St. George,
Chennai.
4. The Registrar General,
High Court of Judicature at Madras

+1cc to Mr.M. Purushothaman, Advocate SR.No.5809

W.P.No.29134 of 2019

PP (CO)
GMY (21/02/2020)

WEB COPY