



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.[MD]No.729 of 2010

Mansoor Ali : Appellant/ Petitioner

Vs.

1) The Director,
Rural Development and Panchayat Raj
Department,
Chennai.

2) The District Collector,
Ramanathapuram District,
Ramanathapuram.

3) The District Employment Officer,
District Employment Exchange,
Ramanathapuram District,
Ramanathapuram.

: Respondents/Respondents

* R3 impleaded vide Court order, dated 27.07.2016 made in M.P.(MD) No.1 of 2014

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 24.09.2010 passed in W.P(MD)No.10008 of 2010.

Prayer in WP(MD). 10008 of 2010 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the 2nd respondent to conduct fresh Written Examination and Interview to the petitioner for the post of Overseer / Junior Drughting Officer in Mahatma Gandhi National Rural Employment Gurantee Scheme, on the basis of the petitioner's representation dated 30.07.2010 within the stipulated period which this Court may deem fit.

For Appellant : Mr.M.Jothi Basu

For Respondents : Mr.S.Angappan,
Government Advocate.



J U D G M E N T

[Delivered by **SENTHILKUMAR RAMAMOORTHY, J.**]

This Intra Court Appeal is directed at the order dated 24.09.2010 in W.P.(MD) No.10008 of 2010.

2. The said writ petition was filed for a Writ of Mandamus to direct the second respondent to conduct a fresh written examination and interview for the petitioner in respect of the post of Overseer/ Junior Draughting Officer in the Mahatma Gandhi National Rural Employment Guarantee Scheme, on the basis of the petitioner's representation dated 30.07.2010.

3. The appellant is a diploma holder in Civil Engineering. After completing the said diploma course from the Alagappa Polytechnic, Karaikudi, the appellant enrolled in the District Employment Exchange Register, Ramanathapuram on 31.01.1995 under Registration No.5084/95. The said registration was required to be renewed every three years. The appellant had renewed the registration in July 2007 and the next renewal date was fixed as 19.07.2010. Meanwhile, pursuant to an application, the appellant received a call letter on 15.07.2010 from the second respondent requesting the appellant to attend the written examination for the post of Overseer/ Junior Draughting Officer in the Mahatma Gandhi National Rural Employment Guarantee Scheme. The examination was scheduled on 30.07.2010 at the Collectorate Office, Ramanathapuram.

4. There were eight vacancies and 15 persons had been called upon to take the written examination. As stated earlier, the petitioner renewed the registration with the Employment Exchange on 28.07.2010 and thereafter proceeded for the written examination on 30.07.2010. However, the appellant was not permitted to take the written examination on the basis that he had failed to renew the registration in the Employment Exchange. The writ petition was filed after submitting a representation dated 30.07.2010 to request the second respondent to reserve one post of Overseer/Junior Draughting Officer for the appellant. The said writ petition was dismissed by order dated 24.09.2010, which is impugned herein.

5. We heard Mr.M.Jothi Basu, learned counsel for the appellant and Mr.S.Angappan, learned Government Advocate for the respondents.

6. The learned counsel for the appellant submitted that the appellant has a Diploma in Civil Engineering and therefore, possessed the necessary educational qualification for the post of



Overseer/ Junior Draughting Officer, Mahatma Gandhi National Rural Employment Guarantee Scheme. He had also duly registered himself with the District Employment Exchange, Ramanathapuram. The said registration was also duly renewed from time to time, including on 28.07.2010.

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7. According to the learned counsel, once the appellant renewed the registration on 28.07.2010, he should not have been prevented from taking the written examination on 30.07.2010 on the basis that he is ineligible. As regards the impugned order of the Writ Court, the learned counsel submitted that the Writ Court had grouped and clubbed several writ petitions, including the writ petition from which the present appeal arises, although the facts in the batch of cases varied. As regards the case of the appellant herein, he pointed out that the specific facts and circumstances of the appellant's case were adverted to only in paragraph no.35 of the impugned order of the learned single Judge. By drawing the attention of the Court to the said paragraph, the learned counsel contended that the learned single Judge noted that the appellant had renewed the registration, but proceeded to conclude that the failure of the officials of the Employment Exchange to keep the name of the appellant in the live register may form the basis to claim compensation against the said officials for their gross negligence but cannot be the ground to set aside the selections and appointments that have been made. The learned counsel pointed out that this conclusion is contrary to the nature of relief prayed for by the appellant, which is to direct the second respondent to conduct a fresh written examination and interview for the appellant in respect of the post of Overseer/ Junior Draughting Officer and not to set aside any selection or appointment already made. Unfortunately, the learned Single Judge proceeded to draw an erroneous conclusion by misconstruing the nature of relief claimed by the appellant / petitioner. For all these reasons, he submitted that the impugned order of the learned Single Judge is not sustainable.

8. On the contrary, the learned counsel for the respondents submitted that the admitted position is that the petitioner was required to renew the registration with the District Employment Exchange on 19.07.2010. Such renewal was not done on or before 19.07.2010. Consequently, the name of the appellant was moved from the live to the dead register after 19.07.2010. In view of the fact that the appellant had applied for the post of Overseer/ Junior Draughting Officer, prior to 19.07.2020, by communication dated 15.07.2010, he was called upon to attend the written examination on 30.07.2010. In the interregnum, as stated above, his name had been moved to the dead register. Therefore, he was not permitted to



attend the examination on 30.07.2010. According to the learned Government Advocate for the respondents, the appellant is responsible for the state of affairs in as much as he failed to renew the registration on or before the last date, namely, 19.07.2010. In these facts and circumstances, the learned Government Advocate for the respondents submitted that the impugned order of the learned Single Judge does not warrant interference.

9. We considered the submissions of the learned counsel for the respective parties and examined the materials on record.

10. As is evident from the narration of facts, the appellant had registered himself with the District Employment Exchange but failed to renew the registration on or before the last date for such renewal i.e. 19.07.2010. Consequently, his name was moved to the dead register. Meanwhile, he had applied for the post of Overseer/Junior Draughting Officer and a call letter in that regard was issued on 15.07.2010 to the appellant because his name had not been shifted to the dead register, as on 15.07.2010, which is prior to the last date for renewal. The appellant contended that a two-month grace period is available for such renewal but he failed to substantiate this contention. The other contention of the learned counsel for the appellant to the effect that the learned Single Judge misconstrued the nature of relief requested for by the appellant in the writ petition is correct. Nonetheless, the undisputed position is that the appellant failed to renew the registration on or before 19.07.2010 and consequently, he was not permitted to take the written examination.

11. Moreover, we find that the appellant was about 35 years of age when the writ petition was filed in the year 2010. As on date, he would be about 45 years old, which would exceed the upper age limit for the post. Keeping in mind the totality of facts and circumstances, in our view, the impugned order of the learned Single Judge does not warrant interference, notwithstanding the fact that the relief requested for by the appellant herein was misconstrued.

12. In fine, the Writ Appeal fails and is dismissed. However, there shall be no order as to costs.

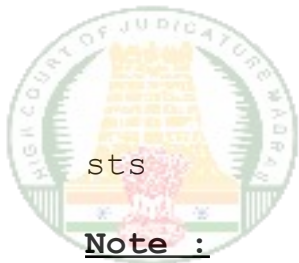
Sd/-

Assistant Registrar(CS-III)

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/ /2020

Sub Assistant Registrar(CS)



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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1) The Director,
Rural Development and Panchayat Raj Department,
Chennai.
- 2) The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 3) The District Employment Officer,
District Employment Exchange,
Ramanathapuram District,
Ramanathapuram

+1 CC to M/s.M. JOTHI BASU, Advocate (SR-20292[F] dated 16/10/2020)

+1 CC to M/s.GP (SR-20521[F] dated 19/10/2020)

JUDGMENT MADE IN
W.A. [MD]No.729 of 2010
Dated: 16.10.2020

al(CO)
TR(28.10.2020) 5P 6C