



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2020

CORAM:

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) Nos.935 & 936 of 2011

and

M.P. (MD) Nos.2 & 2 of 2011

P.Vijayakumar

... Appellant / Petitioner
in W.A.(MD) No.935 of 2011

S.Shanmugam

... Appellant / Petitioner
in W.A.(MD) No.936 of 2011

-VS-

1.The District Collector
Karur District, Karur

2.The Tahsildar,
Kulithalai Taluk, Kulithalai.

3.The District Employment Officer
District Employment Office
Karur

... Respondents / Respondents
in both appeals

PRAYER (in W.A.(MD) No.935 of 2011) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 05.04.2011, passed in W.P.(MD) No.7145 of 2007, on the file of this Court.

PRAYER (in W.A.(MD) No.936 of 2011) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 05.04.2011, passed in W.P.(MD) No.7353 of 2007, on the file of this Court.

Common Prayer in WP(MD)Nos. 7145 and 7353 of 2007 :

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st Respondent to approve the selection of the petitioners as Village Assistant as per the selection proceedings of the 2nd Respondent in Na.Ka.No.A5/452/2007, dated 16.04.2007 on par with the other selected candidates.



For Appellant : Mr.R.Suresh Kumar
(in both appeals)
For Respondents : Mr.K.P.Krishnadoss
(in both appeals) Special Government Pleader

C O M M O N J U D G M E N T

[Delivered by the Hon'ble CHIEF JUSTICE]

Heard the learned counsel for the appellants. These two appellants were seeking employment as Village Assistants. According to the prevalent Government Order, at the time of preparation of the panel, the ratio in which the names had to be sponsored was 1:15. The names of the appellants were found in the list, which was initially prepared. However, there was some dispute with regard to the percentage of women quota and the interview was delayed. But, it is submitted that the appellants did attend the interview and their names were included in the list.

2. However, in the meantime, a Government Order was issued on 30.03.2007, whereby, the ratio had been altered and subsequently again altered by the Government Order, dated 08.08.2007, thereby reducing it to 1:5.

3. Learned counsel for the appellants has rightly invited the attention of this Court to Paragraph Nos.6, 7 and 8 of the counter affidavit filed on behalf of the Tahsildar to point out that the subsequent Government Orders could not affect the selections earlier held, inasmuch as G.O.Ms.No.478, dated 08.08.2007 saved all the earlier selections as per Clause 3(i) thereof, which is extracted hereunder:

"(i) In order to avoid delay and to expedite filling up of vacancies, wherein notifications of vacancies have been sent earlier and list of candidates has already been received from the Employment Exchange prior to 30.03.2007 to fill up the vacancies arising in the offices referred to in G.O.Ms.No.65, Labour and Employment Department, dated 30.03.2007, the vacancies may be filled up based on the said list already sent by the Employment Exchanges."

4. In spite of this, it is urged that the learned Single Judge has non-suited the appellants on erroneous considerations.



5. At this juncture, we have also perused the affidavits and we find that the first appellant-P.Vijayakumar was aged 31 years and the second appellant-S.Shanmugam was aged 30 years at the time of filing of the writ petitions. Both the appellants have now reached the age of almost 45 years and therefore, at this stage, it may not be possible to issue a writ to offer employment to the appellants on account of lapse of time. On principle, a participation or selection does not give a right of employment. Otherwise also any arbitrary action cannot take away a candidate's right of consideration.

6. So far as the issue raised on behalf of the appellants is concerned, we find that the appellants' contentions did have force at least for consideration and the learned Single Judge does not appear to have adverted to the aforesaid submissions, which were on record. Even though the matter could have been remanded back for fresh consideration, but, on account of the age of the appellants and the lapse of time, we are not inclined to exercise discretion at this stage.

7. The writ appeals are accordingly closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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.

krk / sts



To:

1.The District Collector,
Karur District, Karur.

2.The Tahsildar,
Kulithalai Taluk,
Kulithalai.

3.The District Employment Officer,
District Employment Office,
Karur.

+2 CC to M/s.C. JEGANATHAN, Advocate (SR-20124 & 20125[F] dated
15/10/2020)

+1 CC to M/s.GP (SR-20228[F] dated 15/10/2020)

W.A. (MD) Nos.935 & 936 of 2011
and M.P. (MD) Nos.2 & 2 of 2011

14.10.2020

VR(CO)

TR(29.10.2020) 4P 7C