



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P. (MD) .No.1330 of 2020

and

W.M.P. (MD) .Nos.1078 of 2020

P.Manikandan

... Petitioner

Vs.

1.The Secretary to Government,
Secretariat, Fort St.George,
Chennai.

2.The Director General,
Office of the Director General,
Archaeological Survey of India,
Ministry of Culture, Janpath, New Delhi-110011.

3.The Superintending Archaeologist,
Indian Archeology Department,
St.George Fort, Chennai-9.

4.The Senior Conservation Assistant,
Indian Archeology Department,
Senior Assistant Maintaining Division,
Periyakovil Campus, Thanjavur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in F.No.14-13/2019-Adm-II Government of India, Archaeological Survey of India dated 08.11.2019 passed by the 2nd respondent and quash the same and consequently, direct the respondents to provide appropriate job on the basis of compassionate ground.

For Petitioner: Mr.S.A.Ajmalkhan

For R2 to R4 : Mr.V.Kathirvelu
Assistant Solicitor General
assisted by Mr.R.Rajaraman
Central Government Standing Counsel

For R1 : Mr.R.Sethuraman, Special Govt.Pleader

**ORDER**

In view of the demise of the petitioner's father on 09.02.2000, who was employed in the second respondent office, representations were given by the petitioner and his mother, seeking for appointment on compassionate grounds. The second respondent, through the impugned order dated 08.11.2019, had rejected the petitioner's request on the ground that he does not possess the required educational qualification as per the rules.

2.The learned counsel for the petitioner would submit that the respondents ought to have considered his candidature and given an appointment in conformity with the qualifications, which he possessed viz., 8th Std., pass.

3.The learned Assistant Solicitor General appearing for the respondents 2 to 4 would submit that the scheme for compassionate appointment, though entitles the petitioner to seek for an appointment, he does not possess the required qualification even for the minimum post of Multi-Tasking Staff, which requires for a pass in the Matriculation Examination or its equivalent. Since the petitioner has failed in his 9th Std., examination, there are no posts available in the second respondent/department, which would qualify him for consideration on the strength of his educational qualification.

4.The scheme for compassionate appointment is a welfare scheme and the Hon'ble Apex Court as well as this Court have consistently held that such welfare scheme should be viewed pragmatically and liberally. However, such consideration can only be within the parameters of the regulations. In the instant case, though the scheme provides for compassionate appointment, the fact remains that the minimum post to which the compassionate appointment can be considered would be the Multi-Tasking Staff (Protection and care of Monument/Heritage Sites) and the relevant qualification prescribed for that post is a pass in the Matriculation examination or its equivalent. When the petitioner does not possess the required educational qualification for the minimum post in the second respondent/Department, it would not be appropriate for this Court to issue a mandamus, sought for in the present writ petition.

5.At this juncture, it would be appropriate to refer to Rule 6 of the Ministry of Culture, Archaeological Survey of India (Group 'C' Non-Gazetted Posts) Recruitment Rules, 2014, which empowers the Central Government to relax any of the provisions of these rules, in respect of any class or category of persons, in its discretion. The petitioner would submit that he is willing to take the minimum post in the Department. In case, the second respondent is of the view that the prescribed educational qualification can be relaxed for the purpose of accommodating the petitioner to any of the posts in their Department, such a lenient consideration may be extended to



the petitioner. In this connection, the petitioner is granted liberty to make a fresh representation to the second respondent in the lines indicated above and on receipt of such representation, the second respondent shall consider it as expeditiously as possible.

6. Granting such liberty, this Writ Petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

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Thanjavur.

+2 CC to M/s.R.RAJARAMAN, Advocate (SR-7468[F] dated 21/02/2020)

+1 CC to M/s.Special Govt.Pleader (SR-7796[F] dated 24/02/2020)

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