



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.45 of 2018

in

W.P.(MD)No.8896 of 2009

WEB COPY

T.Nandha Kumar

... Appellant/Petitioner

Vs.

1.The Commissioner,
Employment and Training Commission,
Guindy, Chennai - 32.

2.The Director,
Employment and Training,
Chepauk, Chennai 600 005.

3.The District Employment Officer,
Kanyakumari District,
Nagercoil 629 001.

4.The General Manager,
Tamil Nadu State Transport Corporation Ltd,
(Madurai Division III),
Rani Thottam, Nagercoil 629 001,
Kanyakumari District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent, to set aside the order dated 2408.2017 passed by this Court in W.P.(MD) No.8896 of 2009.

Prayer in WP(MD) . 8896 of 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings vide Nee/Va.2/23804/09 dated 07/08/2009 and quash the same as illegal and consequently directing the third respondent to include the petitioner's name in the seniority list for the post of conductor in future vacancy.

For Appellant

: Mr.V.Sasikumar

For Respondents

: Mr.Aayiram K.Selvakumar,

1 to 3

Additional Government Pleader



JUDGMENT

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

The appellant is the writ petitioner. The grievance expressed by the appellant/writ petitioner is that he underwent Conductor training and was issued with a Conductor Certificate in the year 1995. While forwarding the list of candidates for selection and appointment to the post of drivers and conductors in the services of the fourth respondent, the third respondent did not follow the proper ratio.

2.It is the specific case of the petitioner that if 1:20 ratio is followed, the number of candidates forwarded to the fourth respondent would be 4540 to the post of conductor. However, the third respondent has forwarded only a list of 3311 candidates for the post of 227 conductors, without following the mandatory rule of 1:20 ratio.

3.The learned counsel for the appellant / Writ Petitioner would submit that the petitioner belongs to Backward Class Community, hailing from a poor family and the entire family is depending upon his employment for surviving and if the ratio of 1:20 was strictly followed by the third respondent, his name would have been sponsored and there was a every possibility that he would have been accommodated for the post of Conductor and on account of the improper forwarding of candidates done by the third respondent, his future carrier has been affected and the representation sent in this regard is also ended in rejection in form of impugned order dated 07.08.2009.

4.The learned counsel for the appellant/writ petitioner would further contend that though from the date of rejection on 07.08.2009, the petitioner has immediately filed a writ petition, the learned Judge has erroneously concluded that the petitioner was guilty of delay and laches and the said reason is per se unsustainable and therefore, prays for quashment of the impugned order with appropriate positive directions.

5.Per contra, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that at the time of filing of the writ petition, he was aged about 36 years and the age limit prescribed for Backward Class at the relevant point of time was 35 years and assuming for the sake of arguments that if the writ appeal is going to be allowed in his favour, still the appellant/writ petitioner may not get any benefit.

6.It is further contended by the learned Additional Government Pleader appearing for the respondents 1 to 3 that the petitioner was under the impression that once his name was



sponsored, he would be automatically got employment overlooking the fact that the sponsored candidates had to undergo the selection process. Therefore, sponsoring of the candidates by the third respondent itself would not guarantee the employment opportunity to the appellant/writ petitioner and since the learned Judge has taken into consideration all the relevant factors and rightly come to the conclusion to dismiss the writ petition, he prays for dismissal of the writ appeal.

7.This Court has considered the rival submissions and also perused the materials on record carefully.

8.Though the appellant/writ petitioner would contend that the third respondent has failed to follow the ratio of 1:20 in forwarding the list of candidates for selection to the post of conductors, the learned Single Judge, in the impugned order, while dismissing the writ petition, had arrived at a finding that since the cut off dates have been fixed for sponsoring the candidates for appointment, the contention of the writ petitioner that 1:20 ratios are not followed cannot be countenanced.

9.The petitioner/appellant in paragraph No.6 of affidavit had averred that if the ratio of 1:20 is strictly followed by the third respondent, he would have been recommended for the post of Conductor for the reason that apart from 3311 candidates sponsored for the post of Conductor, he was in the 10th rank and as per the ratio 1:20, the number of candidates ought to have been recommended for the post of Conductor was 4540 candidates.

10.As rightly pointed out by Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1 to 3, the petitioner/appellant was under the mistaken impression that once his name was sponsored, he would be automatically got the employment forgetting the fact that he had to undergo the selection process. Therefore, there was no guarantee that on sponsoring by the third respondent/Employment Exchange, he would be automatically got employment as a Conductor in the services of the fourth respondent Corporation. The age limit prescribed for backward class candidates was 35 and even at the time of filing of the writ petition, the writ petitioner was aged about 36 years and now, he is aged about 47 years and even if this Court issues a positive direction still, he would not get any opportunity of employment in the services of the fourth respondent Corporation.

11.In the light of the reasons assigned, this Court finds no merits in the contention put forth by the learned counsel appearing for the appellant/writ petitioner.

12.In the result, this Writ Appeal is dismissed, confirming the order of the learned Single Judge dated 24.08.2017 passed by this Court in W.P.(MD)No.8896



of 2009. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (Crl Side)

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Sub Assistant Registrar(CS)

das/vs

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

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