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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 09.03.2020**

CORAM

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
W.P (MD) No.1858 of 2015**

and

M.P. (MD) Nos.2, 3 and 4 of 2015

M.Mahalakshmi

...Petitioner

Vs

1.The Secretary to Government,
Rural Development and Panchayatraj
Department,
Secretariat, Chennai.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notification of the press note published in Daily Thanthi news paper dated 28.01.2015 issued by the second respondent and quash the same and consequently directing the second respondent to grant age relaxation from the eligible age limit fixed for the post of Road Inspector (Grade-2) to the petitioner on the basis of the G.O.Ms.No.98, Personal and Administrative Reforms (P) Department, dated 17.07.2006.

For Petitioner
For Respondents

:Mr.D.Sadiq Raja
:Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

The Petitioner has prayed for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned notification of the press note published in Daily Thanthi news paper dated 28.01.2015 issued by the second respondent and quash the same and consequently directing the second respondent to grant age relaxation from the eligible age limit fixed for the post of Road Inspector (Grade-2) to the petitioner on the basis of the G.O.Ms.No.98, Personal and Administrative Reforms (P) Department, dated 17.07.2006.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents

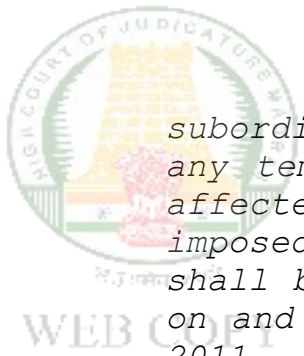


3. The case of the petitioner is that she had studied 10th standard and she had completed the course of training at Government Industrial Training Institute, Ramanathapuram and passed the prescribed trade test in the trade of Draughtsman (Civil) in the year 1996 and she belongs to BC Community. She registered her educational qualification with the District Employment Office, Ramanathapuram and it was renewed till 2015. It is the contention of the petitioner that the Government has passed a ban order to fill up the vacancies in the Government post except certain categories vide G.O.No.212 dated 29.11.2001, Personal & Administrative Reforms (P) Department. Hence, there was no fresh appointment with respect to the Road Inspector post and hence, it was not filled up by the respondents during the period of 2001-2006. On 17.07.2006, a Government Order in G.O.No.98, Personal & Administrative Reforms (P) Department, came to be issued stating that upper age limit for entering into the Government service shall be relaxed by five years to enable the unemployed youth affected by the above said ban order.

4. It is the further case of the petitioner that the second respondent called for application for the post of Road Inspector (Grade 2) through paper publication in a 'Daily Thanthi' news paper, on 28.01.2015. Therefore, the petitioner has applied for the said post on 02.02.2015. As per the said notification, the petitioner should have possess the Draughtsman (Civil) ITI qualification and should have below the age of 35 as on 01.07.2014. It is the grievance of the petitioner that the second respondent ought to have fixed the age limit as 40 years on the basis of the Government Order in G.O.No.98, dated 17.07.2006 and if her age is relaxed on the basis of the said Government Order, she should be considered for the said post. Therefore, she sent a representation dated 09.02.2015 to the second respondent stating that non-relaxation of upper age limit is against the Government Order and prayed that should be given the post of Road Inspector (Grade-2) as per the notification dated 28.01.2015 by relaxing her age as she has crossed the upper age limit. Since there was no response, the petitioner has filed this writ petition.

5. A counter affidavit has been filed by the second respondent, the District Collector, Ramanathapuram stating that the upper age limit for entering into Government service shall be relaxed by five years, to enable the unemployment youth affected by the ban order on recruitment to apply for Government jobs. Thereafter, by issuing another Government Order in G.O.(Ms.)No.114, Personal and Administrative Reforms (S) Department, dated 11.08.2010, the Government have amended the notification under Article 309 of the Constitution of India. As per the said amendment, in the said Rules, after Rule 54-A, the following rule shall be inserted, viz.,

"54-B" Age concession for persons affected due to the ban on direct recruitment.- Notwithstanding anything contained in the Special Rules for the various state and



subordinate services or in any adhoc rules applicable to any temporary post, in the case of a person who has been affected due to the ban on direct recruitment that was imposed on the 29th November, 2001, the upper age limit shall be raised to a maximum period of five years reckoned on and from the 17th July, 2006, ending with the 16th July, 2011, in computing his age for appointment to any post under the State Government, except the categories of posts of Teachers, Doctors and Police Constabulary and shall be applicable in respect of notifications issued or selections made by competent recruiting authorities or appointments made by competent appointing authorities during the aforesaid period."

6. Thereafter, the Director, Rural Development and Panchayat Raj, Chennai in his letter dated 05.08.2014 addressed to the District Collector, Ramanathapuram, had directed the Collector to fill up the vacancies for the post of Road Inspector (Grade II) and by issuing various guidelines, which reads as follows:-

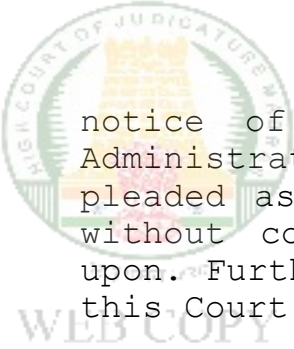
"i). First list should be obtained from Employment Exchange in the ratio of 1 : 5;

ii). If eligible persons are not available in the first list, second list should be obtained;

iii). If eligible persons are not available even in the 2nd list, a certificate should be obtained from the Employment Exchange in this regard mentioning no eligible person is available for that post. After getting the certificate, written examination should be conducted for 60 marks and Employment Exchange seniority for 40 marks should be taken together for 100 marks and selection shall be made."

7. A notice was published in 'Daily Thanthi' news paper and other dailies on 28.01.2015 that the eligible candidates shall apply for the said post. The upper age limit is clearly stated in the notification as 35 for the post of Road Inspector (Grade II). When the petitioner applied for the said post, she has already crossed the upper age limit. Therefore, the petitioner is not eligible to apply for the said post.

8. On going through the materials available on record, it is clear that by G.O.(Ms.)No.114, Personal and Administrative Reforms (S) Department, dated 11.08.2010, if a person is affected due to the ban of direct recruitment that was imposed on 29th November, 2001, the upper age limit shall be raised to a maximum period of five years from 17th July, 2006, ending with 10th July, 2011 and this ~~services recruitment~~ to be taken into account while considering the upper age limit for a person, who will be affected by the ban order issued by the Government. The petitioner has not brought to the



notice of this Court to the G.O.(Ms.)No.114, Personal and Administrative Reforms (S) Department, dated 11.08.2010 and she has pleaded as if the Government has wrongly rejected her application without considering the said Government Order, which she relied upon. Further, the Government had taken a policy decision and hence, this Court is not inclined to interfere with the same.

9.In the result, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Rural Development and Panchayatraj Department,
Secretariat, Chennai.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

+1 CC to SPL.GP (SR-10756[F] dated 10/03/2020)

+1 CC to MR.D.SADIQRAJA, Advocate (SR-10871[F] dated 10/03/2020)

W.P(MD)No.1858 of 2015

09.03.2020

VB (18.06.2020) 4P 5C