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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. NO.12680 OF 2012

AND

M.P.NO.1 OF 2012

AND

M.P.NO.1 OF 2013

R.Anbalagan

.. Petitioner

1. The State of Tamil Nadu,
Rep by the Secretary to Government,
Revenue Department, Fort St-George,
Chennai-9.
2. The District Collector,
Thiruvannamalai.
3. The Revenue Divisional Officer,
Thiruvannamalai.
4. The Tasildhar, Polur.
5. The District Employment Officer,
Thiruvannamalai.

.. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the fifth respondent to sponsor the petitioner's name to the fourth respondent for the post of Village Assistant within a time to be stipulated by this Court and consequently direct the fourth respondent to appoint the petitioner for the said post within stipulated time.

For Petitioner : Mr.R.Krishnan

For Respondents : Mr.U.M.Ravichandran (R1 to R5)
Special Government Pleader



O R D E R

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This Writ Petition has been filed directing the fifth respondent to sponsor the petitioner's name to the fourth respondent for the post of Village assistant within a time to be stipulated by this Court and consequently direct the fourth respondent to appoint the petitioner for the said post.

2. The case of the Petitioner in brief are as follows:

(i) The Writ Petitioner passed X standard during March 1995 and registered his name in the District Employment office on 30.06.1995. Thereafter completed +2 during September 1997 and registered his name with the District Employment Office on 13.06.1998. He got B.A. Degree during April 2002 and the same was registered in District Employment Office on 05.09.2002. It is further stated that he belongs to Most Backward Community and the fourth respondent is the appointing authority as per Rule 3 of the Special Rules for Tamil Nadu Village Servants Service. As per Rule 6 of the said rules, the prescribed minimum educational qualification is a pass in the fifth standard with sufficient knowledge to read and write Tamil.

(ii) The fourth respondent is the appointing authority for the post of Village Servant/Assistant. During June 2011, based on the list sponsored by the fifth respondent, the fourth respondent conducted interview for the petitioner. It is further stated that though the petitioner is eligible for the said post, no communication was received from the fourth respondent and on enquiry the petitioner came to know from the fifth respondent that since the petitioner acquired higher qualification his name was not sponsored by the District Employment Office and further on verification it is found that the similarly placed who has acquired higher qualification were sponsored by the fifth respondent. Therefore, the petitioner has filed this Writ Petition before this Court for the aforesaid prayer.

3. According to the learned counsel for the petitioner already similar issue came up for consideration before this Court in W.P.No.23539 of 2010 and this Court by an order dated 08.09.2011 allowed the Writ Petition by holding that possessing higher qualification than the prescribed minimum qualification is not a bar for getting the post in question. He has also relied upon the Circular dated 09.10.2012 passed by the First



Respondent and submitted that in the light of the aforesaid order dated 08.10.2011 as well as circular dated 09.10.2012, the petitioner is entitled for the prayer as sought by the petitioner.

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4. The learned Special Government Pleader appearing for the Respondents, by relying upon the counter affidavit filed by the fifth respondent submitted that the minimum qualification prescribed for the post of Village Assistant is 5th standard pass and hence, the candidates must register their qualification with regard to 5th Standard pass or upto 10th Standard fail District Employment Office. He further submitted that as the Petitioner has not registered his qualification with regard to fifth standard pass or upto 10th standard fail, in the Employment Office, and registered qualification with regard to only 10th standard pass, he is not eligible for the said post. He further submitted that there is no merit in the Writ Petition and the same is liable to be dismissed.

5. Heard both sides. Perused the records.

6. From the records it is seen that at the time of admission this Court has granted interim order to keep one post vacant. According to the learned counsel for the petitioner the petitioner's name has not been sponsored by the fifth respondent for the reason that the petitioner's qualification of pass in the 5th standard has not been registered in the District Employment Office. But the petitioner has acquired higher qualification of 10th standard, +2 and degree and the same has been registered in the fifth respondent District Employment Office. Further he relied upon the order passed by this Court in W.P.No.23539 of 2010 dated 08.09.2011 wherein it is held that possessing higher qualification than the prescribed minimum qualification is not a bar for appointment to the said post and the First Respondent by accepting the order of this Court has issued Circular dated 09.10.2012. Therefore this Court is of the view that the stand taken by the fifth respondent is not sustainable in law.

7. In view of the same, this Court directs the fifth respondent to sponsor the name of the petitioner to the post of Village Assistant and the fourth respondent is directed to consider the case of the petitioner and take appropriate decision with regard to the appointment to the above said post if otherwise eligible, on merits and in accordance with law as expeditiously as possible not later than twelve weeks (12) from



the date of receipt a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently connected M.Ps are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

1. The Secretary to Government,
The State of Tamil Nadu,
Revenue Department, Fort St-George,
Chennai-9.
2. The District Collector,
Thiruvannamalai.
3. The Revenue Divisional Officer,
Thiruvannamalai.
4. The Tasildhar, Polur.
5. The District Employment Officer,
Thiruvannamalai.

+1cc to Mr.A.Sivaji, Advocate, S.R.No.66881
+1cc to the Government Pleader, S.R.No.67949

W.P. No. 12680 of 2012

KSM(CO)
PM/21/03/2022