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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18903 of 2021

and

W.M.P.Nos.20164 & 20165 of 2021

(Through Video Conferencing)

K.Sekar

... Petitioner

Vs

1.The Commissioner of Revenue Administration,
Government of Tamil Nadu,
Ezhilgam Building,
Chepauk, Chennai - 600 005.

2.The District Collector,
Collectorate,
Chengalpattu District,
Chengalpattu.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Maduranthakam.

4.The Tahsildar,
Taluk Office,
Cheyyur, Chengalpattu District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the entire records pertaining to the promotion seniority panel dated 14.07.2020 on the file of the second respondent and to quash the same and consequently direct the respondents to reconstruct the promotion seniority panel to the post of Village Administrative Officer from the post of Village Assistants.



For Petitioner : Mr.K.M.Subrahmaniam

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

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ORDER

The grievance of the petitioner is that the petitioner was appointed as a Village Assistant. The minimum qualification that was prescribed by the Government of Tamil Nadu to the post of Village Assistant was V standard pass upto a maximum qualification of X standard fail.

2. This is the case of the petitioner that several persons who were over qualified had applied to the post of Village Assistant and got high mark over were accommodated in the light of the Government order in G.O.Ms.No.631, Revenue Department dated 07.11.2008 wherein, those Village Assistants who qualified themselves by passing their X standard and having Secondary School Leaving Certificate (SSLC) were also allowed to be permitted to the next promotion to the post of Village Administrative Officers.

3. It is submitted that some of the appointees who were appointed along with the petitioner were already over qualified and were not entitled to be appointed as Village Administrative Officers and therefore their appointments and their subsequent promotions were clearly contrary to the prevailing Government Orders. In this connection, the petitioner has sent representations on 27.07.2020 to the respondents and thereafter on 02.09.2020 to the Revenue Divisional Officer (RDO) and on 21.07.2021 to the District Collector, Chengalpattu. However, these representations have not evoked any response from the respondents.

4. Appearing on behalf of the the respondents, learned Government Advocate for the respondents submits that the representations of the petitioner will be considered and appropriate orders will be passed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.



5. I have considered the submission of the learned counsel for the petitioner and the learned Government Advocate for the respondents.

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6. As a matter of fact, the Hon'ble Supreme Court recently has passed an order on 07.09.2021 in Employers in relation to the Management of Bhalgora Area (Now Kustore Area) of M/s.Bharat Coking Coal Limited Vs. Workmen being represented by Janta Mazdoor Sangh in SLP (C) No.29873 of 2016 considered several decisions including that of the decision rendered in Chairman and Managing Director, Food Corporation of India and others Vs. Jagdish Balaram Bahira and others, (2017) 8 SCC 670, wherein, the Hon'ble Supreme Court in Paragraph 4 had held as under:-

"4. The batch of cases with which the court is confronted involves individuals who sought the benefit of public employment on the basis of a claim to belong to a beneficiary group which has, upon investigation been found to be invalid. Despite the invalidation of the claim to belong to a Scheduled Caste or, as the case may be, a Scheduled Tribe or backward community, the intervention of the Court is invoked in the exercise of the power of judicial review. The basis for the invocation of jurisdiction lies in an assertion that equities arise upon a lapse of time and these equities are capable of being protected either by the High Court (in the exercise of its jurisdiction under Article 226) or by this Court (when it discharges the constitutional function of doing complete justice under Article PART A 142) The present batch of cases then raises the fundamental issue as to whether such equities are sustainable at law and, if so, the limits that define the jurisdiction of the court to protect individuals who have secured access to the benefit of reservation inspite of the fact that they do not belong to the caste, tribe or class for whom reservation is intended.

7. In Bharat Coking Coal Limited case (referred to supra), the Hon'ble Supreme Court has come down heavily on the Appointing Authorities with the following observations:-

"17. Fraudulent practice to gain public



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employment cannot be countenanced to be permitted by a Court of law. The workmen here, having hoodwinked the Government Undertaking in a fraudulent manner, must be prevented from enjoying the fruits of their ill-gotten advantage. The sanctity of public employment, as a measure of social welfare and a significant source of social mobility, must be protected against such fraudulent process which manipulates and corrupts the selection process. Employment schemes floated by the State for targeted groups, can absorb a finite number of workmen. To abuses the legitimate process therefore would mean deprivation of employment benefits to rightful beneficiaries. The Courts as sentinel of justice must strive to ensure that such employment programmes are not manipulated by deceitful middlemen, thereby setting up a parallel mechanism of Faustian Bargain. Often, desperate job aspirants resort to such measures to compete for limited vacancies, but this Court cannot condone false projections so as to circumvent the statutorily prescribed procedure for appointments. Such illegal practices must be interdicted by the Courts."

8. The respondents are therefore directed to consider the representations of the petitioner in the light of the decision of the Hon'ble Supreme Court and pass appropriate orders within a period of eight weeks from the date of receipt of this order in accordance with law and on merits. If persons who were appointed were already over qualified, steps may be taken to remove them from service after due notice to them.

9. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

arb/nst



To

1.The Commissioner of Revenue Administration,
Government of Tamil Nadu,
Ezhilgam Building,
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2.The District Collector,
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+1CC to The Government Pleader, SR.No. 46181

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PL(CO)
B.VC (13/10/2021)