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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.7403 of 2016
and
W.M.P.No.6618 of 2016

C.Thirumavalavan

...Petitioner

-Vs-

1. The Deputy Director,
Professional and Executive
Employment Office,
Department of Employment & Training,
Guindy, Chennai - 32.
2. The District Employment Officer,
District Employment Office,
Tiruvallur.
3. The Special Tahsildar (L.A.),
Krishna Water Supply Project,
Tiruvallur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his order A5/533/2016 dated 19.02.2016 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the 1st respondent to register the petitioner's name in the priority list for employment opportunity in accordance with G.O.Ms.No.188(P&AR) Department, dated 28.12.1976.

For Petitioner : Ms.N.Kavitha Rameshwar

For Respondents: Mr.E.Veda Bagath Singh,
Special Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. The petitioner herein is the grandson of one Mr.Raman, whose lands were acquired by the Government of Tamilnadu. In G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976, the family members of the land owners, whose lands have been acquired for Government purposes as well as for projects of the Public Sector Undertakings, were ordered to be given priority in public appointments. The term 'members of the family' was clarified in the Government Letter dated 29.02.1988 to include only the land owner, his/her spouse and unmarried children.

3. It is not in dispute that the petitioner's grandfather's lands were acquired for public purposes. In this background, when the petitioner made a request for priority in Government appointments, the same came to be rejected through the impugned order dated 19.02.2016, placing reliance on a clarification letter of the Government, dated 29.02.1988, by stating that since the petitioner is the grandson of the land owner, whose lands were acquired, he will not come under the purview of the term "family member" and consequently will not be eligible for the benefits under G.O.Ms.No.188, dated 28.02.1976.

4. The issue as to whether the grandson of a land owner would deem to be a 'family member' for claiming the benefit under G.O.Ms.No.188, came up for consideration before this Court in the case of R.Balaji Vs. The Chairman, Tamil Nadu Electricity Board, Chennai in W.P.No.34725 of 2007, dated 24.06.2013 and this Court had drawn an analogy from a hypothetical situation, whereby the land owner whose lands have been acquired as well as his spouse or son, could have crossed the age to claim public appointment and therefore restricting the family members, the spouse or children alone for claiming employment, would not be justifiable. The relevant portion of the order reads as follows:-

"As per the G.O., a member of the family, subject to fulfillment of other conditions, shall be given employment. Assuming that a person, his son and his grandson cannot be the members of the one and the same family, shall be against the hard realities faced by our society. Such a restrictive interpretation will not be in furtherance of the object sought to be achieved by the issuance of G.O.Ms.No.656, Labour and Employment, dated 29.06.1978. A person aged about 90 years may be the registered owner of the land. His son, wife or daughter would be about 70 years. Having already crossed the age of superannuation, if such person cannot nominate a junior member of his/her family for getting the benefit of employment under the scheme, the same will result in denial of such



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opportunity to the members of the family as none of the members of the family would be in a position to get employment under the scheme. Therefore, the impugned letter issued by the 5th respondent in Letter No.29264/C1/96-1 dated 26.07.1996 is quite unreasonable besides tending to alter the scheme provided under G.O.Ms.No.656, Labour and Employment, dated 29.06.1978 in the guise of issuing clarification. The tendency of the respondents in avoiding issuance of new G.O. modifying or replacing earlier G.O. and by simply issuing clarificatory letters having the effect of amending and modifying the G.O should be deprecated.

8. For all the reasons stated above, this Court comes to the conclusion that the impugned letter of the 5th respondent cannot stand the scrutiny of the Court and the same deserves to be quashed. For the same reasons, the order of the second respondent rejecting the application of the petitioner is liable to be quashed. Since there is no other reason assigned for the rejection of the application of the petitioner, except the reason that he is not the direct legal heir of the land owner from whom the property was acquired and that he is only a grandson of the land owner, no other reason has been assigned, this Court comes to the conclusion that the petitioner is entitled to the direction in the nature of mandamus directing the respondents 1 and 2 to provide employment to the petitioner in the 1st respondent Board."

5. At this juncture, the learned counsel for the petitioner would draw attention of this Court to the clarificatory letter dated 29.02.1988 relied upon by the first respondent in the impugned order dated 19.02.2016, on the basis of which, the petitioner's request was rejected and submit that the letter itself has been quashed by this Court in an order passed in the case of P.Thirumal Vs. The State of Tamil Nadu, Government Employment Services Department, Chennai and others reported in (2013) 7 MLJ 656. The relevant portion of the order is extracted hereunder:-

"7. I have perused the G.O.Ms.No.188, P&AR Department dated 28.02.1976. There is no such prohibition in the G.O.Ms.No.188. The very purpose of G.O.Ms.No.188 is to provide employment to one of the family members of the land loser, whose the lands were acquired for establishing the factory of the Government.



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8. In my view, the letter dated 29.2.1988 is opposed to the very purpose of G.O.Ms.No.188 and the same is highly arbitrary and violative of Article 14 of the Constitution of India. I have no hesitation to quash the same. Accordingly, the Government Letter No.4920/B11/87-3 dated 29.2.1988 of the first respondent is quashed, as it is opposed to G.O.Ms.No.188. The consequential orders dated 15.3.2013 of the third respondent and 4.6.2013 of the second respondent are also quashed."

6. As rightly pointed out by the learned counsel for the petitioner, when the clarification letter itself has been quashed by this Court, placing reliance on the same and declining the benefits to the petitioner on the ground that he is the grandson of a land owner, cannot be sustained.

7. For all the foregoing reasons, the impugned order dated 19.02.2016 passed by the first respondent, is quashed. Consequently, there shall be a direction to the first respondent herein to register the petitioner's name in the priority list for employment opportunity forthwith, in accordance with G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976, in any event, within a period of one (1) week from the date of receipt of a copy of this order.

8. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

hvk

To:

1. The Deputy Director,
Professional and Executive
Employment Office,
Department of Employment & Training,
Guindy, Chennai - 32.
2. The District Employment Officer,
District Employment Office,
Tiruvallur.



3. The Special Tahsildar (L.A.),
Krishna Water Supply Project,
Tiruvallur.

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+1cc to Ms.N.Kavitha Rameshwar, Advocate, S.R.No.68930
+1cc to the Government Pleader, S.R.No.69763

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and
W.M.P.No.6618 of 2016

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