



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.9996 of 2018

V.Ramalakshmi

... Petitioner

vs.

1.The Commissioner,
Department of Employment and Training,
Guindy, Chennai 32.

2.The Principal,
Government Industrial Training Institute,
Paramakudi 623 707.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to issue appointment order in favour of the petitioner to the post of Office Assistant, as per the selection made in the interview conducted on 12.08.2016.

For Petitioner : Mr.Raghuman Khan
for Mr.K.Govindarajan
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The petitioner seeks a Mandamus directing the Commissioner, Department of Employment and Training/R1 and the Principal, Government Industrial Training Institute/R2 to issue an appointment order in her favour for the post of Office Assistant, as per interview conducted on 12.08.2016.

2. Substantial reliance has been placed by learned counsel for the petitioner on a counter filed by R2 in a Public Interest Litigation filed by a third party, one Mr.Ganesan, who had challenged the very same call for applications as in the present case.

3. This Court thus passed order dated 19.11.2021 to the following effect:

"Heard Mr.K.Govindarajan, learned counsel for the petitioner and Mr.A.K.Manikkam, learned Special



Government Pleader for the respondents.

2. The petitioner seeks a positive direction to the respondents to issue an order in her favour appointing her to the post of Office Assistant. In this regard, she relies on a counter affidavit filed by one S.Ramesh Kumar, Principal of Government ITI, Paramakudi, Ramnad District, in a Public Interest Litigation ('PIL' in short) filed by a third party, one Ganesan challenging the very same call for applications as in issue now.

3. In that PIL, a counter has been filed by the Principal of Government ITI, Paramakudi, wherein he states as follows:

"12. It is humbly submitted that on 12.08.2016 we have conducted personal interview. The candidates who have received the call letter have appeared before the selection committee. The committee comprise of 3 members 1) Principal, 2) Administrative Officer, 3) Manager (I/c) The Selection Committee gives marks to the candidates upon the merits they have. The solution committee select Mr.S.Karthikeyan who is a physically handicapped person who is having 60% disability. He has got the highest score of 20 marks, we have select V.Ramalakshmi among SC (A) priority WDW who is only the participant among the two persons and we issued separate selection order to both and also affixed the above order copy in office notice board and the same was intimated to the higher officials."

4. Thus, the petitioner has been appointed and a selection order issued in her name and affixed upon the office Notice Board. Let the records of the above selection process including the selection order, be produced on the next hearing.

5. The defence put forth now is that the statement in the counter is incorrect. Upon a query posed by the Court as to the action taken as against the deponent in the sworn affidavit, a copy of a show cause notice dated 15.09.2021 in R.C.No.24251/OP2/2021 is placed before me. This is nothing but a half-hearted attempt at disciplinary proceedings, initiated four years after the disposal of the PIL.

6. As regards the appointment sought for by the petitioner, the explanation tendered is that though two posts have been sanctioned for Office Assistant, the filling-up of the posts is in the ratio of 1:12 ie., one Office Assistant for 12 Ministerial staff. Let records be produced in support of the staff strength from the year 2016, when the petitioner was appointed, and for all



intervening years, till date.

7. The aforesaid details be filed by way of affidavit sworn to and executed by R1.

8. List this matter on 06.12.2021."

WEB COPY

4. The appointment of Office Assistants is as per G.O.(Ms). No.128, Finance (Ze-Bag) Department, dated 21.02.2006 that has been fixed a ratio of 12:1 ie., one Office Assistant to be appointed for twelve Officers/Ministerial Staff, for this purpose.

5. An affidavit was filed in December 2021, wherein R1 has set out, by way of tabulation, the details of Officers and Ministerial staff posts, for the period from January 2016 to November 2021, month wise. The tabulation reveals that from January 2016 till date, the number of the officers and ministerial staff has remained constant, at eleven (11).

6. The counter filed states as follows:

"6. It is submitted that in the office of Second respondent the total number of sanctioned Ministerial posts (including Administrative Officer and Principal) is 15. As per the norms prescribed in G.O.(Ms).No.128, Finance (Ze-Bag) Dept, dated 21.02.2006, 2 posts of Office Assistants were eligible to be filled. Accordingly, the Appointing Authority notified the two vacancies under General Turn (Priority) and Scheduled Caste (Arunthathiyar) (Woman/Destitute Widow) respectively. The interview was conducted on 12.08.2016, 49 candidates participated in the interview called for in the General Turn - Priority category and the top performer was selected and appointed for the post of Office Assistant.

For the SCA (W/DW) category, only one candidate out of 2 sponsored by employment exchange appeared for the interview and there was no competition for want of candidates."

7. One S.Karthikeyan had been selected in general turn (priority category) and the petitioner has been selected in Scheduled Caste (Arunthathiyar). However, since the norms prescribe a ratio of only one assistant per twelve staff, S.Karthikeyan had been accorded priority in selection. In my view, there is nothing untoward in the selection made.

8. Thus, and in light of G.O.(Ms).No.128, Finance (Ze-Bag) Department, dated 21.02.2006, there is no merit in the plea put forth by the petitioner and this Writ Petition is dismissed. The petitioner is always at liberty to apply for future calls, if he satisfies the requirements of such Notification. No costs.



9. One thing remains and this concerns the erroneous statement made by R2 to the effect that an appointment order was issued to the petitioner. To ascertain what action, if any, had been initiated against R2 for filing an affidavit containing errors and factual discrepancies before this Court, the following order had been passed on 08.12.2021:

"Learned counsel for the petitioner seeks time to obtain instructions in regard to the affidavit filed by the first respondent. That apart, records are produced, which do not contain any information in regard to the selection order stated to have been issued in the name of the petitioner.

2.Mr.A.K.Manikkam, learned Special Government Pleader submits that there is no such order and that the statement of the Principal to the Government ITI Paramakudi in counter filed in the Public Interest Litigation is incorrect.

3.Let this submission be in writing. That apart, let there be an explanation in the affidavit to be filed, explaining the delay in taking action as against the deponent in the aforesaid sworn affidavit.

4.List on 21.12.2021. Affidavit by then."

10. Today, proceedings bearing No.24251/OP2/2021, dated 16.12.2021 are placed on file imposing a punishment of increment cut for a period of one year without cumulative effect for the aforesaid charge.

11. A perusal of order dated 16.12.2021 makes it clear that the proceedings are nothing but a farce. The entirety of the explanation which is extracted in order dated 16.12.2021 is a cut and paste of the counter filed by R2 in this writ petition. It is thus apparent to me that the punishment imposed has been merely an attempt to convince the Court that remedial action has been taken as against the authority.

12. While wholly unconvinced, I accede to the plea of learned Special Government Pleader who states that the Officer had made a genuine mistake, and allow this matter to lie.

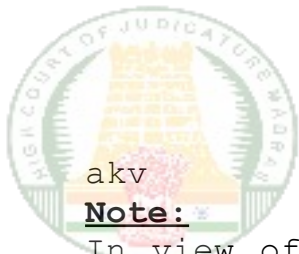
Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



akv

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

- 1.The Commissioner,
Department of Employment and Training,
Guindy,
Chennai 32.
- 2.The Principal,
Government Industrial Training Institute,
Paramakudi 623 707.

+1 CC to M/s.SPL GP (SR-39961[F] dated 22/12/2021)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-40041[F] dated 22/12/2021)

ORDER MADE IN
W.P. (MD) .No.9996 of 2018
21.12.2021

DKS (CO)
TR(01.02.2022) 5P 5C