

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 4968 of 2022

G.Chitra

...Petitioner

-vs-

1. The Secretary,
Department of Higher Education,
Government of India,
Sasthri Bhavan,
New Delhi - 110 001.
2. The Secretary,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.
3. The Registrar,
Central University of Tamil Nadu,
Neelakudi Campus,
Thiruvavarur - 610 005.
4. The Chairman,
Recruitment Committee,
Central University of Tamil Nadu,
Neelankudi Campus,
Thiruvavarur - 610 005.

...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus to consider the representation dated 29.12.2021 and to appoint the Petitioner in the post of Hostel Attendant vide Notification No. CUTN/NT/02/2016 dated 07.07.2016 in the Third Respondent University abiding the Cadre Recruitment Rules.

For Petitioner : Mr. L.Chandrakumar

For Respondents : Mr. V.Veluchamy,
Additional Government Pleader (Edn)
(for R1)

O R D E R

Heard Mr. L. Chandrakumar, Learned Counsel for the Petitioner and Mr. V. Veluchamy, Learned Additional Government Pleader (Education), who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner claims to have applied for the two vacancies in the post of Hostel Attendant in furtherance to the Notification No. CUTN/NT/02/2016 dated 07.07.2016 made by the Third Respondent and had been ranked third in the selection list. It is further stated that as the selected candidates had not joined duty, the Petitioner had made a representation dated 29.12.2021 to appoint her for one of those posts and as there has not been any response to the same, this Writ Petition has been filed for directing the Respondents to pass orders thereon.

3. It is evident from the materials borne out of the record that the selection related to the year 2016 and the Petitioner has not satisfactorily explained the reasons for not having immediately pursued the matter thereafter. There is also nothing available to infer that the selected candidates against the two vacancies had not reported for duty or that the said vacancies had not been filled up by any subsequent recruitment process. In any event, the Hon'ble Supreme Court of India in State of Bihar -vs- Amrendra Kumar Mishra [(2006) 12 SCC 561] has ruled that the life of a panel remains valid for a year and once it lapses, unless an appropriate order is issued by the State, no appointment can be made out of the said panel. This would obviously mean that the belated claim made by the Petitioner after the lapse of several years cannot be countenanced.

4. In this context, reference must be made to the ruling of the Hon'ble Supreme Court of India in Director of Settlements, A.P. -vs- M.R. Apparao [(2002) 4 SCC 638], where the legal position has been explicated as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or

them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (Kalyan Singh -vs- State of U.P. [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."

In such circumstances, there does not appear to be any justification to entertain the Writ Petition for the relief sought for considering the representation made by the Petitioner for granting appointment to her. It is added by way of clarification here that it would not preclude the Petitioner from participating in any fresh selection for the relevant post, if she is otherwise eligible and not disqualified, in accordance with law.

In the result, the Writ Petition is dismissed with the aforesaid observations. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

skr

To

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+1cc to M/s.P.T.Ramadevi, Advocate SR. No.14904

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AJS (CO)
PR (08/04/2022)