



W.P. No.9904 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.9904 of 2021

S. Umamaheswaran

.. Petitioner

vs.

1. The Director,
Rural Development and Panchayat Raj Department,
4th Floor,
Panagal Park,
Saidapet,
Chennai - 600 015.

2. The District Collector,
O/o. the District Collector,
Vellore.

3. Block Development Officer (Village Panchayat)
Panchayat Union,
Nemili,
Vellore.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned rejection order of the second respondent in Na.Ka.No.A3/12993/2015, dated 01.04.2019 and quash the same and consequently direct the respondents 1 and 2 to grant relaxation to the petitioner for the post of Junior Assistant Grade I and grant notional



W.P. No.9904 of 2021

promotion to him with effect from 14.04.2011 based upon the based on the G.O. No.1120, Employee and Administrative Reforms Department, dated 30.10.1984 and direct the respondents to pay all benefits accrued therefrom.

For Petitioner : Mr.G. Mohan
for Mr.S.Kumara Devan
For Respondents : Mr.R.U. Dinesh Rajkumar
Addl. Govt. Pleader

ORDER

The grievance of the petitioner in this writ petition is that he ought to have been granted exemption from successful completion of departmental examinations as per G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984.

2. Under the impugned order, dated 01.04.2019 passed by the 2nd respondent, the petitioner's request for exemption from passing the departmental examinations has been rejected on the ground that the petitioner had made the request belatedly on the verge of his retirement. The petitioner had earlier written the departmental examinations in order to seek promotion. But he has been unsuccessful on ten occasions. However, relying upon G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984, after attaining the age of 53 years the petitioner had applied for exemption from passing the



W.P. No.9904 of 2021

departmental examinations and he sought for promotion as per the said

G.O. The petitioner claims that he has an unblemished track record.

The petitioner gave a representation to the respondents on 04.11.2015 seeking for exemption as per G.O. Ms. No.1120, dated 30.10.1984, as referred to supra. He retired from service on 30.04.2016.

3. A counter affidavit has been filed by the 2nd respondent denying the contentions of the petitioner. Their main bone of contention is that the petitioner has approached the respondents belatedly after a lapse of four years that too on the verge of his retirement. According to them only due to the said reason, the petitioner's request for exemption from passing the departmental examinations was rejected under the impugned order.

4. The learned counsel for the petitioner relies upon two Division Bench judgments of this Court, which are as follows :-

a) Division Bench judgment dated 07.02.2018 passed in W.A. No.228 of 2017 in the case of ***S.Arasalingam vs. The Government of Tamil Nadu and another*** and

b) Division Bench judgment dated 04.07.2017 passed in W.A. No.1668 of 2013 in the case of ***Government of Tamil Nadu and another vs. T.M. Gopalakrishnan.***

5. In the aforesaid decisions, the learned counsel for the petitioner



W.P. No.9904 of 2021

would point out that a similar issue was involved and exemption from successfully completing the departmental examinations was granted by applying G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984.

6. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the facts of the case involved in the aforesaid Division Bench judgments are not identical to the facts of the instant case. He would submit that since the petitioner has given a representation belatedly after a lapse of four years and that too on the verge of his retirement, he is not entitled to take benefit of G.O. Ms. No.1120 Personnel and Administrative Reforms Department, dated 30.10.1984 According to him, the petitioner's representation has been rightly rejected under the impugned order.

7. It is not in dispute that G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984 is still in force. The said G.O. reads as follows :-

“In order to give exemption to a Government servant from passing the Special and Departmental examinations, he should fulfill the following conditions:

1.The Government servant concerned should be not below the age of 53;



W.P. No.9904 of 2021

2. To pass the Departmental examinations, he should have made 5 Attempts and as a proof of this, necessary entry should have been made in the Service Register or the concerned official should send the Hall Tickets in this regard.

3. His service records should be satisfactory to avail of this concession”.

8 a) It is not in dispute that the petitioner had crossed the age of 53 years, when he gave the representation to the respondents seeking for exemption from passing the departmental examinations.

b) The petitioner has made ten attempts for passing the departmental examinations and on all those ten attempts he has been unsuccessful.

c) The petitioner has an Unblemished track record while he was in service.

d) The petitioner has also applied for exemption on 14.04.2011, whereas his date of retirement is 30.04.2016.

e) The petitioner attained the age of 53 years on 14.04.2011. He has given a representation seeking for exemption from passing the departmental examinations on 04.11.2015, even prior to his retirement date, which fell on 30.04.2016.

9. The only contention raised by the respondents for rejecting the



W.P. No.9904 of 2021

petitioner's request for seeking exemption from passing the departmental examinations is that he has approached them belatedly that too on the verge of his retirement. The G.O. Ms.No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984 does not stipulate as to when the Government servant should seek for exemption after he attains the age of 53 years. Admittedly, when the petitioner has applied for exemption as per G.O. Ms.No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984, even prior to his retirement, rejecting the petitioner's request is arbitrary and illegal and it has been passed by total non application of mind to the said G.O., which does not stipulate any time limit. The petitioner has an unblemished track record and he has made ten successful attempts to pass the departmental examinations and he was also aged more than 53 years at the time when he sought for relaxation. Therefore, having satisfied all the conditions stipulated under G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984, the petitioner ought to have been granted exemption from passing the departmental examinations.

10. The Division Bench judgments relied upon by the learned counsel for the petitioner referred to supra has made it clear that once a



W.P. No.9904 of 2021

Government servant satisfies all the three conditions as laid down in G.O. Ms.No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984, the said Government servant will have to be granted exemption from passing the departmental examinations.

11. In the instant case also, the petitioner has satisfied all the three conditions stipulated under G.O. Ms. No.1120, Personnel and Administrative Reforms Department, dated 30.10.1984 and therefore, he is also entitled for grant of exemption from writing the departmental examinations. However, since the petitioner has given the representation only on the verge of his retirement and that too when more than six years has elapsed, since the date of his retirement, no monetary benefits can be granted to the petitioner during the period when he was in service. He is entitled only for notional benefits for the purpose of enhancement of his pensionary benefits.

12. For the foregoing reasons, the impugned order dated 01.04.2019 is hereby quashed and the writ petition is allowed. The respondents are directed to grant relaxation to the petitioner for the post of Junior Assistant - Grade I and grant notional promotion to him with effect from 14.04.2011. However, this Court makes it clear that the petitioner is not entitled for any monetary benefits from 14.04.2011 till



W.P. No.9904 of 2021

the date of his retirement. It is also made clear, that the notional promotion to the post of Junior Assistant - Grade I to the petitioner with effect from 14.04.2011 will be counted for the purpose of enhancing the pensionary benefits to the petitioner and the respondents are directed to recalculate the pension amount payable to the petitioner and pay accordingly. No costs.

20.12.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To :
1. The Director,
Rural Development and Panchayat Raj Department,
4th Floor,
Panagal Park,
Saidapet,
Chennai - 600 015.

2. The District Collector,
O/o. the District Collector,
Vellore.



W.P. No.9904 of 2021

3. The Block Development Officer (Village Panchayat)
Panchayat Union,
Nemili,
Vellore.



WEB COPY



W.P. No.9904 of 2021

ABDUL QUDDHOSE, J.

vsi2

W.P. No.9904 of 2021

20.12.2022