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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16/2/2022

C O R A M

THE HON'BLE MR.JUSTICE V.PARTHIBAN

WRIT PETITION NO.2352 OF 2014

C. Mohan

...

Petitioner

Vs

1. The Chief Educational Officer
Thiruvallur.

2. The District Educational Officer
Thiruvallur.

...

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records to the order in Mu.Mu.No.2376/a1/2011 dated 30/5/2013 passed by the second respondent herein and quash the same and consequently direct the respondents to appoint the petitioner for the post of Night Watchman in the vacancies to be filled up in the Government School in Thiruvallur District.

For petitioner

... Mr.M.Sriram

For respondents

... Mr.L.S.M.Haseen Fizal
Additional Government Pleader

O R D E R

This writ petition has been filed to quash the order, dated 30/5/2013, passed by the second respondent and consequently, direct the respondents to appoint the petitioner, for the post of Night Watchman, in the vacancies to be filled up in the Government School, in Thiruvallur District.

2. The case of the petitioner is that he belongs to Scheduled Caste Community, studied upto IX Standard. He had registered his name with the local Employment Exchange and was waiting for employment opportunity to any Clause IV posts in public service.



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3. By proceeding, in June 2012, the second respondent invited applications from the candidates, from the Employment Exchange, for appointment to the post of watchman. The name of the petitioner appeared to have been sponsored by the Employment Exchange and he appeared for the certificate verification, on 16/6/2012. According to him, the petitioner had submitted all the required certificates for verification.

4. So far as the post of Watchman was concerned, minimum educational qualification was VIII standard. The petitioner studied upto IX Standard and belong to Schedule Caste Community. However, after the verification of certificates, there was no communication from the second respondent. Therefore, the petitioner approached the respondents to know about the status of his appointment to the post of Watchman. The petitioner was however, informed by communication, dated 21/2/2013 of the first respondent that claim, for the appointment of a Watchman is rejected, as he was found to be over aged, on the date of certificate verification.

5. The petitioner, thereafter, received the impugned order, dated 30/5/2013, by the second respondent, rejecting his claim for appointment to the post of Night Watchman as he was over aged. Challenging the rejection, the petitioner has come forward with the present writ petition praying for the relief as stated supra.

6. After notice, Mr.L.S.M.Hasan Fizal, learned counsel for the respondent takes notice.

7. A detailed counter affidavit has been filed. In the counter affidavit, reasons have been clearly stated as to how the petitioner could not be ultimately appointed, in view of his crossing of the upper age limit. It is useful to refer the averments contained in the counter affidavit, and the same read as under:-

"It is submitted that the District Employment Officer, Thiruvallur was requested to send a list of eligible candidates who have registered their names in the Employment Exchange for the appointment of the post of Watchman, vide Na.Ka.No.1633/A1/2012, dated 234/2012 of the District Educational Officer, Thiruvallur. The District Employment Officer, Thiruvallur has sponsored a list of candidates for the post of Watchman vide Ref.No.2012/MO022/2012 dated 24/5/2012. The above said candidates were called for certificate verification on 16/6/2012 in the



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Venkateswara Matriculation Higher Secondary School, Thiruvallur. 82 candidates attended on the above said date and venue for certificate verification including the petitioner. Out of the candidates appeared for certificate verification 19 candidates were selected and appointment order were also issued to the candidates vide Na.Ka.No.1633/A1/2012 dated 23/11/2012. The post of Watchman comes under the Tamil Nadu Basic Service Rules. The upper age limit is fixed as 35 years for SC/ST candidates for the appointment of Watchman and subsequently, Government have passed orders to the effect that age relaxation was given to candidates for the completed three years waiting employment after registration in the employment exchanges, relaxation of one year and a maximum of five years of relaxation was given rise to the candidates below SSLC qualification, registered in the Employment Exchange for employment vide G.O.(Ms) No.21 Labour and Employment (N2) Department dated 2/2/2000. The Date of Birth of the petitioner is 2/10/1971. Hence the petitioner has completed 41 years 1 month 21 days as on 23/11/2012 i.e., at the time of recruitment to the post of Watchman. The same was informed to the petitioner vide Proceedings of the District Educational Officer, Thiruvallur, in Na.Ka.No.2326/A1/2013 dated 30/5/2013.

It is submitted that the request of the petitioner could not be considered for recruitment to the post of Watchman, since petitioner was over aged i.e., 41 years one month and 21 days. No provision has been made for beyond the allowable age relaxation in the Tamil Nadu Basic Service Rules for the SC candidates for the recruitment of Watchman."

8. On this, the learned counsel appearing for the petitioner submitted that he had marginally crossed the upper age limit, hence, his case may be considered, sympathetically. This Court is unable to accept the arguments and submissions made on behalf of the petitioner.

In the matter of policy decision by the Government, the same cannot be interfered with solely on sympathetic grounds.



9. From the above averments, as found in the counter affidavit, it is very clear that despite the upper age limit being extended and maximum concession provided to the candidate from the reserved category, still the petitioner did not come within the extended upper age limit, in view of the averment extracted supra. Therefore, his candidature was rightly rejected. In view of the above, this Court does not find any infirmity in the decision of the respondents.

10. In the result, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Chief Educational Officer
Thiruvallur.
2. The District Educational Officer
Thiruvallur.

+lcc to Mr.M.Sriram, Advocate, S.R.No.10165
+lcc to the Government Pleader, S.R.No.10746

Writ Petition No.2352 of 2014

SPD(CO)
PM/16/03/2022