



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.19073 OF 2020

AND

W.M.P.NO.23646 OF 2020

1. R.Murugan

... Petitioner

Vs.

1. The Chief Secretary to Government,
Government of Tamilnadu, Secretariat,
Chennai 600 009.
2. The Principal Secretary to Government,
Labour And Employment Department,
Secretariat, Chennai 600 009.
3. The Principal Secretary to Government,
Welfare of Differently Abled Persons Dept.,
Secretariat, Chennai 600 009.
4. The Principal Secretary to Government,
Personnel And Administrative Reforms Dept.,
Secretariat, Chennai 600 009.
5. The Secretary to The Government,
Law Department, Secretariat,
Chennai 600 009.
6. The Commissioner for the Welfare of
Differently Abled, Chennai-600005.
7. The Commissioner of Employment
And Training, Chennai 600 032.
8. The District Employment Office,
Tiruvallur-602 001.

... Respondents



Prayer : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing Respondents to provide appointment to the petitioner in any one of the suitable posts in categories C and D in any one of the Departments of Government of Tamilnadu or its Undertakings commensurate with his educational and technical qualifications and taking into account that he is entitled for appointment as such under priority category on two counts and in the light of the provisions of The Rights of persons with Disabilities Act 2016.

For Petitioner : Mr.S.Balakrishnan for
Mr.M.Ravi

For Respondents : Mr.V.Manoharan, A.G.P.
RR1 to 8

O R D E R

According to the petitioner, the petitioner registered his name in the District Employment Office, Tiruvallur on 30.6.2014 under the category of Differently Abled Person. The petitioner's name was sponsored by the District Employment Officer, Tiruvallur to the Principal District Judge, Tiruvallur and the petitioner was appointed as Typist / Copyist in the Special Court for Land Grabbing Cases, Tiruvallur as a Differently Abled Person with 70% disability under 10(a) (i). However, the petitioner was ousted from service by order dated 30.4.2014 by the 9th respondent despite the fact that the petitioner is a Differently Abled Person. According to the petitioner, the respondent has to follow the Government order issued under G.O.Ms.No.21 dated 30.5.2017 and G.O.Ms.No.51 dated 26.12.2017 and failed to consider the petitioner's candidature for sponsoring his name to the appointing authorities and the respondents failed to consider the petitioner's name under the priority category and also under the category of land being acquired by the Government from the petitioner's family.

2. The fourth respondent has filed counter wherein it is stated that pursuant to the Guidelines issued by the Government of India, the Government of Tamil Nadu has taken a policy decision and accorded priority in providing employment assistance to some of the categories in respect of recruitment made through Employment Office. Accordingly, the Government issued G.O. (Ms) No.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976. In the Annexure to the said G.O., Priority categories have been listed under Groups I, II, III and IV as per the order of priority. As per the G.O.



(Ms) No.541, dated 29.9.1989, the vacancies for which appointment by direct recruitment are to be made through Employment Office should be filled up by candidates belonging to the Priority categories and Non-Priority categories in the ratio of 1 : 4 subject to the rule of reservation/allocation made in the Service rules. As per the provisions have been made under Section 27 (b) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act No.14 of 2016) out of the total number of appointments reserved to the categories of Scheduled Castes including Arunthathiyars on preferential basis, Scheduled Tribes, Backward Classes, Backward Class Muslims, Most Backward Classes and the Denotified Communities and General, in the case of appointment made by direct recruitment, 1% each shall be reserved for persons with benchmark disabilities under categories (i) blindness and low vision, (ii) deaf and hard of hearing (iii) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy and 1% for persons with benchmark disabilities under categories (iv) autism, intellectual disability, specific learning disability and mental illness and (v) multiple disabilities from amongst persons under categories (i) to (iv) including deaf blindness in the posts identified for each disabilities both taken together and the appointment shall be made in the turn and in the order of rotation specified in Schedule VI to the said Act. Therefore, according to the fourth respondent, the petitioner's name will be considered as per the priority category subject to Rule of reservation, by following the procedures and orders in force.

3. The District Employment Officer, 8th Respondent has filed a counter affidavit wherein the 8th respondent disputed the fact by stating that the petitioner was not sponsored by the 8th respondent as stated by the petitioner. The recruitment was made to fill the temporary vacancies under Rule 10(a) (i) of the General Rules for Tamil Nadu Subordinate Service Rules. At present, entry into Government service is not restricted by way of nomination through Employment Office. Furthermore, after publishing the G.O.Ms.No.44 Labour and Employment Department, dated 11.3.2015, all vacancies in Public Sector are to be simultaneously advertised in Newspaper while notifying to the Employment Offices to provide a platform to the eligible job seekers to apply directly. The petitioner can also apply for all the vacancies notified in newspapers by the employer. According priority in nomination for a candidate does not mean that all "Priority candidates get automatic 100% nomination, which is restricted by the ratio of nomination while sponsoring priority candidates. Further, there is also no obligation on the part of the employer to give employment to all those nominated by Employment office, as Employment offices nominate



candidates in 1 : 5 ratio, that is, for every vacancy five candidates are nominated. Selection of the right candidate of their choice is vested with the employer and employment office has got no role in this. The role of the Employment office is only to sponsor the candidates in 1 : 5 ratio as per the requisite criteria. Merely possessing one or more criteria does not guarantee nomination by Employment office if the candidate do not possess the required seniority / qualification or does not fulfill any one of the norms mentioned by the Employer in their notification and selection by the employer. The Department of Employment and Training is nominating Differently abled persons in three ways. First, they are nominated against vacancies reserved for Non-priority candidates also in the ratio of 4 : 1. That is, for every vacancy reserved for Non-priority candidates, one differently-abled candidate is nominated, as ratio of nomination is 1 : 5 at present. Secondly, they are nominated against vacancies reserved for priority candidates. Thirdly, they are nominated against vacancies reserved for differently-abled persons. The petitioner is at liberty to apply for vacancies notified in newspapers in accordance with G.O.No.44, Labour and Employment Department, dated 11.3.2015. It is further submitted that all Rules and Regulations prescribed by the Central and State Governments are strictly followed by the Employment offices. Employment offices nominates Differently Abled persons even against vacancies reserved for Non-priority candidates.

4. It is stated in the counter affidavit that all the departments are strictly following the rule of reservation and the vacancies reserved for Priority candidates and Non Priority candidates are filled up as per the relevant Rules in force and there is no specific allegation that contrary to the Rules of reservation the respondents filled up the vacant posts or candidates from Non priority categories were given appointment in the Priority categories. Therefore, the petitioner can very well apply to the vacant posts through open competition for which notifications are being issued by the concerned department and as such there is no merit in the writ petition.

5. Consequently, the writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to M/s.M.Ravi, Advocate, S.R.No.19974

+1cc to the Special Government Pleader, S.R.No.19895

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SKM(CO)
RLP(13/04/2022)