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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.3.2022

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.17726 OF 2020

AND

W.M.P.NO.21970 OF 2020

M.Kavitha

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development and Panchayat
Raj Department,
Fort St. George,
Chennai - 600 009.

2. The Director of Rural Development
and Panchayat Raj,
Panagal Building,
4th and 5th Floor,
Jeenis Road, Saidapet,
Chennai - 15.

3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 601.

... Respondents

AMENDED PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to issue an order relaxing Rule 4(a) (relating to age) of the special Rules for the Tamil nadu Panchayat Development Engineering Subordinate service in favour of the petitioner to enable the petitioner to apply for the post of Overseer in the Tamil nadu Panchayat Development Engineering Subordinate Service pursuant to the Notification having Ref.No.11929/2020/PA2 dated 07.12.2020 issued by the third Respondent under the Tamil Nadu Rural Employment Guarantee Scheme and get selected and appointed on merits for the post of Overseer.



(The Prayer was amended vide order passed by this Court in W.M.P.No.23845 of 2020 dated 21.12.2020).

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For Petitioner : Mrs.C.Uma

For Respondents : Mr.V.Manoharan
Additional Government Pleader

O R D E R

The petitioner was appointed as Technical Assistant in the posts created vide G.O.Ms.No.153 issued by Rural Development Department and Panchayat Raj (CGS 1) Department, dated 20.10.2006 under National Rural Employment Guarantee Scheme, by outsourcing method and was paid Rs.4000/- per month on consolidated pay. Subsequently, in order to have effective monitoring system over the National Rural Employment Guarantee Scheme, the Technical Assistants who were qualified and recruited through Employment office were appointed as Overseers by adopting the norms prescribed in G.O.Ms.No.96 dated 6.6.2008. Aggrieved persons have filed writ petition in W.P.No.14222 and 14407 of 2008 and the said writ petitions were dismissed by this Court. The third respondent has issued a notification dated 5.11.2020 calling for applications for the post of Overseers fixing the educational qualification as Diploma in Civil Engineering and the maximum age as 35. Since the petitioner has become overaged, filed the present writ petition seeking direction to the respondent to give age relaxation to the petitioner, so as to apply for the post of Overseer on the ground that she already had the experience in the said post for two years as Technical Assistant in the Tamil Nadu Rural Employment Guarantee Scheme.

2. Counter affidavit has been filed by the third respondent wherein it is stated that the petitioner has filed W.A.No.776 and 777 of 2008 before this court and by order dated 6.8.2008 the First Bench of this Court has passed the following order:

''5. Considering the aforesaid facts, this Court dispose of the above two appeals recruitment to the post of Overseer in the aforesaid two Districts, viz., Tiruvannamalai and Dindigul, the appellants, whose registration continues in the Employment Exchange, should be given a chance to appear in the said recruitment process. In doing so, the cases of the appellants, should not be discarded on the ground of their age. In other words, if they



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have crossed the requisite age, it should be condoned. After they appear in the written test, their performance in the test should be taken into account including their seniority in registration. This Court makes it clear that if in all these things, the appellants are found equal along with other persons who are to be recruited, in that case, the case of the appellants should be given a weightage considering their past experience. This Court also gives a direction that the vacancies in the aforesaid two district in the post of recruitment process as early by initiating recruitment process as early as possible, preferably, within a period of six weeks from this date.''

It is further stated that pursuant to the aforesaid order, an opportunity was extended to the petitioner. However, the petitioner failed in the written examination. The similarly placed persons have filed W.P.No.890 & 891 of 2021 and this Court by order dated 11.2.2021 passed the following order:

"It is seen that, the above said Division Bench order of this Court is to extend the benefits to candidates as one Time Measure and the petitioners herein have already availed the benefits of the same by effectively participating in the recruitment process. Since they have failed in the examination, one more opportunity cannot be granted.

7. In view of the foregoing, I find no reason to grant the relief sought in these writ petitions. Accordingly, above writ petitions stand dismissed. No costs. Consequently, connected W.M.P.No.969 and 970 of 2021 are closed.

3. Admittedly, the petitioner herein have already availed the same benefits by effectively participating in the recruitment process. Since she has failed in the examination, one more opportunity cannot be granted.

4. In the light of the order passed by this Court in W.P.No.890 & 891 of 2021 dated 11.2.2021, wherein this Court negatived the request made by the petitioners therein and the petitioner also availed the same benefits by participating the recruitment process, there is no merit in the writ petition.



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

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Rural Development and Panchayat
Raj Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building,
4th and 5th Floor,
Jeenis Road, Saidapet,
Chennai - 15.
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai - 606 601.

+1cc to Mrs.C.Uma, Advocate, S.R.No.20563

+1cc to the Special Government Pleader, S.R.No.21067

W.P.NO.17726 OF 2020 AND
W.M.P.NO.22010 OF 2020

SKM(CO)
PBS/13/04/2022