



W.P.No.32361 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.32361 of 2017
and
W.M.P.No.35651 of 2017

A.Kavitha

...Petitioner

Vs.

- 1.The Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner/Director,
Rural Development & Panchayat Raj Department,
Pangal Building, Saidapet,
Chennai-600 015.
- 3.The District Collector,
Dharmapuri District.
- 4.The Project Director,
Mahatma Gandhi National Rural-Employment
Guarantee Scheme (MGNREGS),
Dharmapuri District.
- 5.The Block Development Officer,
Harur,
Dharmapuri District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 17.04.2017 and 22.11.2017 and accordingly direct the respondents to permit the petitioner to write the examination for the purpose of absorption as Junior Assistant as per G.O.Ms.No.37, Rural Development and Panchayat Raj Department, dated 22.03.2017 by taking into account the fact that the petitioner has completed 5 years of service as Computer Assistant.

For Petitioner : Ms.Pramila

For Respondent : Mr.S.J.Mohamed Sathik
Nos.1 to 4 Government Advocate

ORDER

Heard Ms.Pramila, learned counsel appearing for the petitioner and Mr.S.J.Mohamed Sathik, learned Government Advocate appearing on behalf of the respondents 1 to 4.

2. The learned counsel for the petitioner placed reliance on two decisions of this Court viz., ***L. Kannaki V. The Secretary to***



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**Government, Animal Husbandry and Fisheries Department,
Chennai & 2 others in W.P.No.3603 of 2007 dated 20.12.2011**

**and Meenalochani V. The District Elementary Educational
Officer, Thoothukudi & 3 others in W.P.(MD) Nos.4236 of 2016,**

2254 & 7876 of 2017 dated 27.04.2022, submitted that her representations dated 17.04.2017 and 22.11.2017, seeking permission to write the examination for the purpose of absorption as Junior Assistant as per G.O.Ms.No.37, Rural Development and Panchayat Raj Department, dated 22.03.2017 by taking into account the fact that the petitioner has completed 5 years of service as Computer Assistant, have not been considered by the respondents till date and prayed that there may be a direction to the respondents to consider the same.

3. Per contra, the learned Government Advocate appearing for the respondents 1 to 4 placed reliance on the counter affidavit and raised his objections that the petitioner is ineligible to take the written examination.

4. The decision to permit the petitioner to write the examination for the purpose of absorption as Junior Assistant as per G.O.Ms. No.37, Rural Development and Panchayat Raj Department, dated 22.03.2017,



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requires to be taken by the official respondents. Hence, this Court may not be justified in stepping into their shoes in exercise of its power under Article 226 of the Constitution of India, for considering the same.

5. It is also needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

6. Since the representations given by the petitioner dates back to the year 2017, it would be appropriate that the petitioner be granted liberty to give a fresh representation, with a consequential direction to the respondents to consider the same, thereby securing the ends of justice.



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7. In the light of the above observations, the petitioner is granted liberty to give a fresh representation to the respondents herein, along with a copy of the earlier representations dated 17.04.2017 and 22.11.2017, ventilating her grievances. On receipt of such a representation, the respondents shall consider it and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of the representation. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim made by the petitioner and it is open to the respondents to consider it on its own merits.

8. With the above observation and direction, this Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order

DP



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WEB COPY

To

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M.S.RAMESH,J.

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