



W.P(MD)No.579 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.579 of 2021

and

W.M.P.(MD)Nos.498 & 499 of 2021

K.Sundaram

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub Collector,
Ramanathapuram Division,
Ramanathapuram.

3.The Tahsildar,
Thiruvadanai Taluk,
Thiruvadanai,
Ramanathapuram District.

4.R.Shanmugasundaram

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent i.e. Tahsildar, Thiruvadanai in his Na.Ka.no.A1/583/2020 dated 30.11.2020 and quash the appointment of Thiru.R.Shanmugasundaram under SI.No.8 of the notification alone and



W.P(MD)No.579 of 2021

consequently direct the respondents 1 to 3 to appoint the petitioner in the post of Village Assistant for Odavayal Village according to his qualification.

For Petitioner : Mr.S.Visvalingam
For R1 to R3 : Mr.R.Suresh Kumar
Additional Government Pleader
For R4 : No appearance

ORDER

Heard the learned counsel on either side.

2. The issue concerns appointment to the post of Village Assistant. The contention of the petitioner is that he failed in X standard and that he fulfils the requirement for the said post. The fourth respondent is having diploma in EEE and that he is over qualified. A better qualified person is bound to perform well in interview and therefore, the petitioner was at disadvantage.

3. My attention is drawn to the circular issued by the Director of Employment and Training, Chennai on 24.07.2012 in which it has been mentioned that for the post of Village Assistant, selection should be made from among those who had passed in VI standard but failed in VIII standard. If such persons are not available, then, recruiting authority can go for those who have



W.P(MD)No.579 of 2021

passed in VIII standard but failed in X standard. The learned counsel appearing for the petitioner also drew my attention to the decision rendered in W.P. (MD)No.13468 of 2013, dated 07.12.2020. In the said decision, it has been held by a learned Judge of this Court that over-qualification is a disqualification.

4. Though the contention of the learned counsel appearing for the petitioner appears to be formidable, I am not inclined to grant relief. This is because, the learned Additional Government Pleader draws my attention to the order dated 06.12.2019 made in W.P.(MD)No.33613 of 2019. The said case also pertained to the appointment of the post of Village Assistant. Paragraph Nos.8, 10 and 11 are as follows:-

“8.The only issue which requires consideration before this Court is as to whether the petitioner can be disqualified for being considered for the selection to the post of Village Assistant, merely on the ground that he is over qualified. The notification in question specifically provides only for a minimum qualification of V standard (pass). It does not prescribe for the maximum qualification. However, the concerned authority is placing reliance on the Government letter dated 07.11.2008, which prescribes the maximum qualification as X standard (fail).

10. The above Judgment squarely covers the issue that has been raised in the present writ petition. In the above Judgment, this Court has placed reliance upon the Judgment of the Hon'ble Supreme Court in ***Mohd. Riazul Usman Gani Vs. District and Sessions Judge, Nagpur, reported in (2002) 2 SCC 606***. The Hon'ble Supreme Court has categorically held that the application made by a candidature cannot be rejected on the ground that he is over qualified / more qualified and such rejection was held to be arbitrary and irrational. This Court has also held that a notification can



W.P(MD)No.579 of 2021

only prescribe for a minimum qualification and a higher qualification cannot become a disadvantage for the petitioner.

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11. In the present case, the petitioner has been sponsored by District Employment Exchange, Thanjavur for the post of Village Assistant and the petitioner is possessing the qualification prescribed in the notification. Incidentally, it is also seen that the Government letter dated 07.11.2008 has also been withdrawn by a subsequent letter issued by the Government dated 09.10.2012.”

5. The learned Judge had only followed the earlier decision of the Hon'ble Apex Court. As I already noted, this order was passed on 06.12.2019. The order dated 07.12.2020 in W.P.(MD)No.13468 of 2013 relied on by the learned counsel appearing for the petitioner does not make a reference to this order.

6. In this view of the matter, respectfully following the decision made in W.P.(MD)No.33613 of 2019, I have to necessarily reject the contention of the petitioner's counsel that appointment of a over qualified person to the post of Village Assistant is bad in law. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20.09.2022

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.579 of 2021

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G.R.SWAMINATHAN, J.



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W.P(MD)No.579 of 2021

rmi

W.P(MD)No.579 of 2021

20.09.2022