



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.8864 of 2020

and

W.M.P(MD) No.8124 of 2020

Abubakker

...Petitioner

Vs.

1.The Post Master HSG-I,
Dindigul Head Post Office,
Dindigul-624 001.

2.The Inspector (Post),
O/o. the Inspector (Pos),
Kodaikanal Sub Division,
Batlagundu,
Dindigul District.-624 202.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to permit him to join the duty of GDS ABPM/Dak Sevak, Old Batlagundu B/O, Batlagundu S.O in the light of Letter of Intimation in KKLSDN/GDSRECT/ABPM/OLDBATLAGUNDU/DLGS-DATED 11-11-2019 issued by the second respondent forthwith.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mrs.L.Victoria Gowri
Assistant Solicitor General of India

O R D E R

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General of India for the respondent.

2.The petitioner herein had subjected himself to the selection process for the post of Assistant Branch Post Gramin Dak Sevak Assistant Branch Post Master pursuant to the recruitment notification. The petitioner was provisionally selected in the recruitment on 09.09.2019, which was intimated to him by letter dated 11.11.2019, calling upon him to present before the concerned authority on 20.11.2019 for verification of the original certificates.

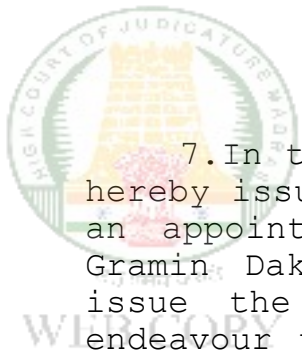


3.The petitioner herein had applied for the aforesaid post on unreserved category and by claiming priority as economically weaker section candidate. The petitioner's such claim is substantiated through the copy of the application dated 27.03.2019 produced before this Court as well as the letter of intimation issued by the second respondent dated 11.11.2019. The petitioner claims to have produced the relevant certificate categorizing him as an Economically Weaker Section candidate, which certificate was issued by the concerned Revenue Official. The Tahsildar of Nilakottai had also forwarded the certificate to the second respondent herein on 24.01.2020 certifying that the petitioner belongs to economically weaker section. In spite of the fact that the the petitioner has been provisionally selected and all the certificates substantiating his claim of Economically Weaker Section have also been submitted to the respondent, the petitioner's candidature was not acted upon and therefore, the present writ petition has been filed.

4.The learned Assistant Solicitor General of India, on instructions, submitted that the petitioner herein, had submitted a community certificate evidencing that he belongs to Backward Community (Muslim) and in view of the official memorandum dated 19.01.2019, the petitioner cannot simultaneously claim priority under community as well as the economically weaker section.

5.The stand taken by the respondents may not be justifiable. Firstly, it is nobody's case that the petitioner had made an application under the priority of "Backward Community (Muslim)". While that being so, mere production of the community certificate by the petitioner, cannot be construed that the petitioner is claiming priority under the community. Secondly, it is stated in the application itself that the petitioner seeks priority under Unreserved-Economically Weaker Section. When the application is clearly made only under unreserved category, referring to the petitioner's community certificate classifying him under Backward Class (Muslim), it is not only impermissible but also against the regulations governing selection process.

6.Though the petitioner herein has been provisionally selected and intimated to him on 11.11.2019, till date the respondents had not rejected his candidature through a proper order. The only certificate, which the respondents may require the petitioner to produce, is the certificate issued by the Revenue Officials categorizing him to belong to economically weaker section, which certificate has not only been produced by the petitioner, but also been forwarded by the concerned Revenue Official of the Government of Tamil Nadu to the second respondent on 24.01.2020 itself. As such, I do not find any impediment for the petitioner being appointed to the post. Thus, the writ petition is liable to be allowed.



7. In the light of the above observations, a writ of mandamus is hereby issued to the first respondent herein, directing him to issue an appointment order, appointing the petitioner to the post of Gramin Dak Sevak Assistant Branch Post Master and consequently, issue the relevant posting orders. The first respondent shall endeavour to issue such appointment order at least within a period of two weeks from the date of receipt of copy of this order.

8. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CP

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Post Master HSG-I,
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Dindigul-624 001.
2. The Inspector (Post),
O/o. the Inspector (Pos),
Kodaikanal Sub Division,
Batlagundu, Dindigul District.-624 202.

Order made in
W.P. (MD) No.8864 of 2020 and
W.M.P (MD) No.8124 of 2020
24.02.2021

NSM(CO)
SRS (12/03/2021) 3P : 3C