



W.P(MD)No.3823 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3823 of 2019

and

W.M.P.(MD)No.2988 of 2019

and

W.M.P.(MD)No.9619 of 2021

D.Joseph Raja Devaraj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Labour and Employment Department,
Fort St.George, Chennai – 9.

2.The Director of Employment and Training
Industrial Estate,
Guindy, Chennai – 32.

3.The Joint Director of Employment and
Training Industrial Estate,
Guindy, Chennai – 32.

4.The Correspondent,
CSI Art Industrial School of the TNDTA
(Tuticoring Nazareth Diocesan Trust Association),
Nazareth, Tuticorin District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his



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proceedings in Na.Ka.No.35695 / Thoba. 2 / 2018 dated 31/12/2018 and quash the same as illegal and consequent direction may be issued to the respondents to approve the petitioner's appointment as Workshop Assistant from the date of the petitioner's appointment on 26/06/2003 and to disburse all service and monetary benefits within stipulated time.

For Petitioner : Mr.G.Prabhu Rajadurai,
For Mr.A.Allwin Asir Jebaraj

For Respondents : Mr.A.K.Manikkam,
Spl. Government Pleader for R1 to R3.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was appointed as Workshop Assistant in the Industrial School run by the fourth respondent on 27.06.2003 in the place of one D.Sundersingh Paulraj who expired on 27.06.2003. Copy of the proposal dated 12.12.2003 sent by the management is enclosed in the typed set of papers. The proposal does not mention the date of appointment of the writ petitioner. Be that as it may, it was returned on 26.03.2004 by the second respondent on the ground that minority status of the management is still under consideration. The management re-presented the proposal on 19.12.2008 and that was once



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again returned on 19.09.2011. The management as well as the writ petitioner filed writ petitions before this Court. The said writ petitions were disposed of on 04.09.2012 by holding that when once the minority status of the management has been declared, there is no need to revisit the same. Thus, one ground on which return was made had been answered in favour of the writ petitioner. Whiles, the second respondent took the stand that when the writ petitioner was appointed, he was already over aged. The said rejection order is put to challenge in this writ petition.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant the relief as prayed for.

4.The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents.

5.I carefully considered the rival contentions and went through the materials on record. It is not in dispute that the only ground for not approving the petitioner's appointment is that he was over aged in the year 2003, when he was appointed. It is also not in dispute that the writ petitioner's age was 33



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years in the year 2003. It is again not in dispute that the relevant Special Rules prescribe that the maximum age of appointment for the said post is 30 years. The only question that calls for consideration is whether on this ground, the department could have declined to approve the petitioner's appointment.

6.The learned counsel for the petitioner draws my attention to Rule 12(d) of the Tamil Nadu State and Subordinate Service Rules. The said Rule reads as follows:-

“12. Qualifications—

(d) The maximum age-limit prescribed in the special rules shall not apply—

(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Classes, Most Backward Class and Denotified communities or of destitute widows of all castes to a post included in a service for which the Special Rules prescribe a qualification lower than a degree of any University mentioned in Schedule II to this part, if such candidate possesses a general educational qualification which is higher than that referred to in sub-rule (a) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Classes, Most Backward Classes and



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Denotified communities or of destitute widows of all castes who holds a degree of any University mentioned in Schedule II to this part, if the degree he holds is not lower than the degree prescribed in the Special Rules for appointment to such post and if he is otherwise qualified for appointment.”

7.I may also profitably refer to the corresponding provision in Tamil Nadu Government Servants (Conditions and Services) Act, 2016. Section 20(8) of the said Act is as follows:-

“The maximum age limit prescribed in the special rules shall not apply—

(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Class or Denotified Communities or of destitute widows of all castes to a post included in a service for which the special rules prescribe a qualification lower than a degree of any University recognized by the University Grants Commission, if such candidate possesses a general educational qualification which is higher than that referred to in sub-section (1) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most



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Backward Classes and Denotified Communities or of destitute widows of all castes who holds a degree of any University recognized by the University Grants Commission, if the degree he holds is not lower than the degree prescribed in the special rules for appointment to such post and if he is otherwise qualified for appointment:”

8.The educational qualification prescribed for the post of Workshop Assistant is possession of 10th standard plus ITI. It is a qualification, that is below university degree but the above the minimum qualification prescribed in the Rules. It is again not in dispute that the minimum qualification prescribed is pass in 10th standard. The petitioner is a Christian. It is recognized as backward classes community in Tamilnadu. Therefore, the aforesaid beneficial rule will squarely apply to the writ petitioner. The maximum age prescribed in the special rules will not come in the way. The impugned order is therefore set aside. The respondents are directed to approve the appointment of the writ petitioner as Workshop Assistant from the date of his original appointment. I consciously refrain from mentioning the petitioner's original date of appointment because the proposal of the management does not mention it. The respondents are directed to release the salary grant forthwith and without any delay.



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9.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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