



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.21852 of 2015

and

M.P. (MD) .Nos.1 and 2 of 2015

S.Muthukumar

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by the Principal Secretary,
Highways and Minor Ports (HM1) Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director General,
Highways Department,
Chepauk,
Chennai - 600 005.

3.The Joint Director (Administration),
O/o. The Director General,
Highways Department,
Chepauk,
Chennai - 600 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the Explanation II under Rule 7 of The Special Rules for the Tamil Nadu Highways Engineering Subordinate Service (Section 15 in Volume III) of the Tamil Nadu Services Manual, 1970 and the Impugned Notification in Advertisement No.12390/Nir.5(1)/2014 dated 26.10.2015 on the file of the third respondent as illegal to the extent of not providing the age relaxation for the candidates with higher qualifications and consequently to direct the second and third respondents to consider the petitioner for appointment to the post of Junior Draughting Officer in Highways Department.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader.



ORDER

This Writ Petition has been filed to declare the Explanation II under Rule 7 of the Special Rules for the Tamil Nadu Highways Engineering Subordinate Service (Section 15 in Volume III) of the Tamil Nadu Services Manual, 1970 and the Impugned Notification in Advertisement No.12390 /Nir. 5(1) /2014 dated 26.10.2015 on the file of the third respondent as illegal to the extent of not providing the age relaxation for the candidates with higher qualifications and consequently to direct the second and third respondents to consider the petitioner for appointment to the post of Junior Draughting Officer in Highways Department.

2. The brief facts of the case are that the petitioner after completing higher secondary course, completed his Diploma in Civil Engineering with first class and has registered in District Employment Exchange. The petitioner participated in the recruitment process for the year 2009 and 2012, but could not get employment. The third respondent has issued the impugned advertisement calling for applications for recruitment to the post of Junior Draughting Officer including 188 vacancies and 5 backlog vacancies. The petitioner belongs to BC category. For the first time, the age limit is fixed as 32 years for BC category and the petitioner is 51 years old at the time of filing of the Writ Petition that is in the year 2015. According to the petitioner, Rule 12 (d) of Tamil Nadu State and Subordinate Service Rules provides that the maximum age limit prescribed in the special rules shall not apply, if the required qualification is less than a degree and if the candidates possess additional qualifications like higher secondary or diploma course, the age limit is not applicable. However, in the present notification, the respondents prescribed the age limit as 32 years. However, the notification does not provide the benefit of Rule 12 (d). Aggrieved over, the petitioner has filed this present Writ Petition.

3. The respondents have filed a counter stating that the Sub Rules for the Tamil Nadu Highways Engineering Subordinate Service was issued vide G.O.Ms.No.2288, Public Works (Highways) Department, dated 29.10.1968 and it came into effect from 01.04.1961. The Junior Draughting Officer comes under Category 4 in the Service Rules. Rule 7 prescribes Qualifications as to the age as 33 years for SC/ST, 32 years for BC and 28 years for others. However, the said age limit was increased in the present recruitment vide Government Order. The said Sub Rule is applicable for the Junior Draughting Officer. Thereafter, an advertisement was issued in which the increased age limit was prescribed in the advertisement. There is no illegality in such prescription.



4. Heard Mr.T.Lajapathi Roy, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents.

5. When the matter was taken up for hearing, the learned Special Government Pleader has circulated G.O.Ms.No.177 Highways Department dated 24.10.2018 wherein it has been stated that the advertisement which was issued has been withdrawn subsequently. The respondent further submitted that the said post would be recruited through TNPSC. Therefore, a part of the prayer is answered through G.O.Ms.No.177. The second part of the prayer is that the age limit which has been specially fixed through the Sub Rules. In the present case, the petitioner has already attained superannuation and he is not eligible for any employment. The issue raised in this writ petition regarding the age is left open.

6. Hence the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

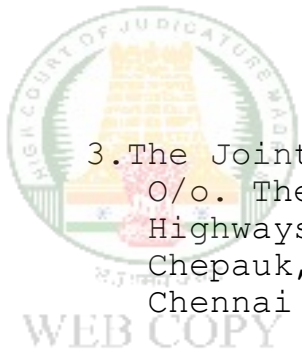
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant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

To

1.The Principal Secretary,
The Government of Tamil Nadu,
Highways and Minor Ports (HM1) Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director General,
Highways Department,
Chepauk,
Chennai - 600 005.



3.The Joint Director (Administration),
O/o. The Director General,
Highways Department,
Chepauk,
Chennai - 600 005.

+1 CC to M/s.SPL.G.P. (SR-19788[F] dated 20/04/2022)

**W.P. (MD) .No.21852 of 2015
19.04.2022**

RD(24.05.2022) 4P 5C