



W.P.(MD)No.5172 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5172 of 2017

and

W.M.P.(MD)No.4168 of 2017

N.Athinarayanan

... Petitioner

Vs.

1. The Government of Tamil Naud,
represented by its Principal Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai – 09.

2. The Chairman,
Arasu Rubber Corporation Ltd.,
Tamil Nadu Biodiversity Green Project,
Project Management Unit Office,
Velachery, Tambaram Main Road,
Nanmangalam, Medavakkam Post,
Chennai – 600 015.

3. The Managing Director,
Arasu Rubber Corporation Ltd.,
Vadasery, Nagercoil – 629 001.
Kanyakumari District.

... Respondents



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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 in pursuant to the impugned order passed by the third Respondent in Ref.No.E2/12507/16, dated 03.03.2017 and quash the same and consequently, direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits.

For Petitioner : Mr.M.Saravanakumar

For R1 & R2 : Mr.C.Baskaran
Government Advocate (Civil side)

For R3 : No appearance



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ORDER

This Writ Petition is filed for Writ of Certiorari Mandamus, to quash the impugned order, dated 03.03.2017 and consequently, direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits.

2. The petitioner has completed B.Sc. (Zoology) in the year 1980. Thereafter, joined B.L. Course in Madurai Government Law College and completed B.L. Degree in the year 1984 and enrolled in Tamil Nadu Bar Council on 23.01.1985 in enrollment number Ms.No.65/1985. The petitioner has completed Post Graduate Diploma in Personnel Management and Industrial Relations and enrolled his name in Professional and Executive Employment Office, Chennai in Registration No.MDP 1985 M 00000680. The third respondent has called for list of persons from the Employment Exchange and also issued notification in Daily Thanthi News Paper on 27.11.2014 to fill up the post of Law Officer. The maximum age limit was fixed by the respondent is 35 years.



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The petitioner's name was sponsored by the Employment Exchange.

Thereafter, the petitioner was directed to appear for the interview on 27.03.2015. In the interview, six persons were participated and the petitioner is the only person to comply all the norms prescribed by the respondents. Even though the petitioner was over aged, the Selection Committee selected the petitioner by quoting the Rule 12(d) of Tamil Nadu Subordinate Service Rules. Considering the Selection Committee recommendations, the third respondent issued an appointment order in the impugned proceedings, dated 08.05.2015. The petitioner joined the service on 21.05.2015. After completion of one year i.e., on 20.05.2016, the petitioner's service was regularized.

3. A show cause notice, dated 03.01.2017 was issued alleging that the age limit for the post of Law Officer was given as maximum 35 years and the petitioner have been selected at the age of 55 years which is in violation of the Service Rules and direct to submit his explanation within 3 days. The show cause notice further alleges that while preparing counter in W.P.(MD)No.16244 of 2014, the petitioner willfully



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manipulated the facts by stating the age limit for the direct recruitment to the post of Law Officer as, “One must have completed 35 years of age” instead of “One must not have completed 35 years of age”. The said writ petition was filed by the un-successful candidates and while the said writ petition was pending, the petitioner was selected and appointed in the service. After appointment, the petitioner was permitted to prepare a counter vide proceedings of the third respondent dated 02.02.2017 in the presence of Administrative Officer within 7 days but the petitioner had prepared a counter misleading the Hon’ble Court.

4. Thereafter, the third respondent issued a charge memo. The contention of the petitioner is that the third respondent refused to furnish the documents of the Selection Committee's report along with the interview file including the petitioner's proforma and selection procedure. Without conducting any enquiry, the petitioner's service was terminated, vide order, 03.03.2017. Challenging the same, the present writ petition has been filed.



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5. The respondents have filed counter affidavit, wherein it has been stated that the petitioner has deliberately manipulated the counter affidavit that was filed in W.P.(MD)No.16244 of 2014. The said writ petition was filed by the unsuccessful candidate. Since the petitioner has manipulated the counter, the respondents have confirmed the allegation and terminated the petitioner's service. Therefore, the respondents prayed to dismiss the writ petition.

6. Heard Mr.M.Saravanakumar, learned Counsel appearing for the petitioner and Mr.C.Baskaran, learned Government Advocate (Civil side) appearing for the first and second respondents and there is no appearance for the third respondent and perused the records.

7. The learned Counsel appearing for the petitioner referred to the proceedings, dated 03.03.2017, wherein it has been categorically stated as under:

“Further, the erroneous decision of the Selection



Committee cannot be regularized which is proved to be the gross violation of Service Rules”

8. Even, the respondents have admitted that the Selection Committee has committed a mistake. Since the Selection Committee has committed a mistake, the petitioner cannot seek regularization for the service. From this it is evident that there is no mistake on the part of the respondent and the selection committee. Even as per the petitioner, six candidates have attended the interview and the Selection Committee has selected the petitioner based on Rule 12(d) Tamil Nadu Subordinate Service Rules. The petitioner is the only candidate who is fulfilling all the norms that are prescribed except the age factor.

9. Therefore, this Court is of the considered opinion that there is no mistake on the part of the petitioner. However, as on date, the petitioner has attained 58 years which is the age prescribed for superannuation. Hence there is no possibility of reinstatement.



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10. Therefore, this Court is inclined to compensate the petitioner's grievance by granting 50% of the backwages to the petitioner from the date of termination till the date of superannuation. The third respondent shall pay 50% of the backwages to the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

11. With the above said direction, this Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2022

Index : Yes / No
Internet : Yes / No
jbr



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S.SRIMATHY, J

jbr

Order made in
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