



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.23564 of 2018

and

W.M.P. (MD)No.21367 of 2018

WEB COPY

M.Nagarajan

... Petitioner

VS

1. V.O.Chaidambaranar Port Trust,
represented by its Chairman,
Thoothukudi.

2. The Chief Mechanical Engineer,
Mechanical and Engineering Department,
V.O.Chidambaram Port Trust,
Tuticorin - 628 004.

... Respondents

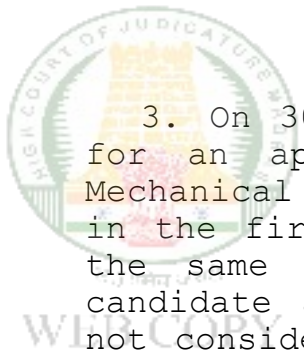
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to appoint the petitioner in the post of Operator Special Grade (Class III) reserved for Schedule Tribe by considering the petitioner's application, dated 27.03.2018 for the said post submitted to the second respondent on pursuant to the Notification dated 20.03.2018 File No.MEE-CMEEL-EST-SDRDR-V2/D.994.

For Petitioner : Mr.Niranjana S.Kumar
For Respondents : Mr.AL.Kannan
for Mr.S.Yaswanth

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondents to appoint the petitioner to the post of Operator Special Grade (Class III) reserved for Schedule Tribe for considering the petitioner's application, dated 27.03.2018 for the said post submitted to the second respondent on pursuant to the Notification dated 20.03.2018.

2. The petitioner belong to the Schedule Tribes Community. The petitioner had completed Diploma in Mechanical Engineering in the year 2007 and also having Crane Operator Heavy Driving License. The petitioner possess Training certificate on Safe Transportation of Hazardous Goods conducted by Ashok Leyland Drivers Training Institute for the period 10.08.2011 to 12.08.2011 and Bharat Petroleum Corporation Limited from 22.11.2014 to 22.11.2014. Thereafter, the petitioner had completed a course for Container Handling Crane Operation and Maintenance Course conducted by Udhayam Institute of Engineering and Technology from 01.06.2016 to 31.07.2016.



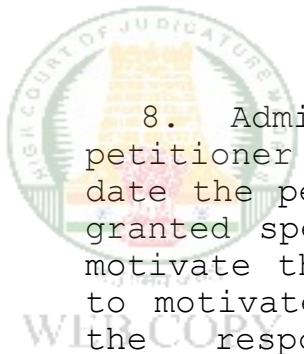
3. On 30.06.2016, the respondents issued a notification calling for an application to the post of Operator Special Grade in Mechanical and Electrical Engineering Department for ST candidates in the first respondent Port Trust and the petitioner applied for the same on 24.07.2016. Though the petitioner is the single candidate applied for the said notification, the respondents have not considered the petitioner's application. A fresh notification again was issued on 26.10.2016 for the same post and the petitioner applied for the same on 04.11.2016 and again the respondents did not consider the petitioner's application. On 18.04.2017, the petitioner's father submitted a petition under RTI Act seeking information relating to the action taken for the said recruitment and the respondents replied that the recruitment process is in progress and it is for the said reason the information sought cannot be furnished. Again another notification, dated 05.06.2017 was issued and the petitioner submitted his application on 07.06.2017, but the petitioner was not selected. Again on 20.03.2018, the respondents invited application for the same post and the petitioner again applied on 27.03.2018. Since there was no response, the petitioner has filed a writ petition in W.P.(MD)No.11704 of 2017 and the Official respondents have intimated the petitioner that his application dated 08.06.2017 would be considered and also advised to withdraw the writ petition and the petitioner has withdrawn the writ petition on 16.07.2018. Since the petitioner's application was not considered, the petitioner has preferred this present writ petition.

4. The respondents have filed a counter affidavit stating that the objections by the respondents are that the petitioner was not given any assurance that he will be taken for an employment and therefore, the petitioner has withdrawn the writ petition. The next objection is that the petitioner was not having 12 years experience as prescribed in the notification i.e., with Diploma, the experience is nine years and without Diploma it is 12 years. Since the petitioner was not having the experience, the petitioner was not considered for the employment.

5. The contention of the respondent is denied by the petitioner stating that by default of time, the petitioner would have gained experience of 12 years with the diploma qualification.

6. Heard Mr.Niranjan S.Kumar, learned Counsel appearing for the petitioner and Mr.AL.Kannan, learned Counsel appearing for the respondents.

7. This Court has given anxious consideration for the entire issue. The petitioner belongs to Schedule Tribe Community and he has qualified himself with certain certificates by attending six Institutes and this Court appreciates his motivation to qualify himself.



8. Admittedly, at the time of original application, the petitioner was lagging total experience of 12 years, but now as on date the petitioner has gained that experience. The Government has granted specific privileges for SC and ST candidates, in order to motivate them. On the those lines the respondents is also expected to motivate the ST candidate. Therefore, this Court is directing the respondent to consider the petitioner's candidature compassionately and issue the appointment order to the petitioner. The said exercise shall be carried out within six weeks from the date of receipt of a copy of this order.

9. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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 Chairman,
V.O.Chaidambaranar Port Trust,
Thoothukudi.
2. The Chief Mechanical Engineer,
Mechanical and Engineering Department,
V.O.Chidambaram Port Trust,
Tuticorin - 628 004.

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-10693[F] dated 08/03/2022)

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