



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24876 of 2022 and
W.M.P.(MD)Nos.18967 & 18968 of 2022

S.Elavarasan

... Petitioner

Vs.

1. The Secretary to Government,
Department of Revenue and Disaster Management,
Fort St. George, Chennai.

2. The Commissioner of Revenue Administration and
Disaster Management,
Ezhilagam, Chepauk,
Chennai – 600 005.

3. The Tahsildar,
Lalgudi Taluk,
Tiruchirappalli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Notification dated 10.10.2022 made in Announcement No.Ka.A7/8708/2022 on the file of the Tahsildar, Lalgudi Taluk, Tiruchirappalli District, the 3rd respondent herein in so far as it relates to the fixation of age limit of 37 years for the petitioner and quash the same and consequently direct the respondents to process the application of the petitioner.



For Petitioner : Mr.AV.Arun

For Respondents: Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The writ petitioner belongs to Scheduled Caste community. He is a B.A.(Tamil) degree holder. He is an aspirant for the post of Village Assistant. The Tahsildar, Lalgudi, has issued the impugned notification dated 10.10.2022 calling for applications from eligible candidates for appointing Village Assistants for the notified villages. The writ petitioner is a resident of Lalgudi Taluk. The petitioner however is unable to apply in response to the impugned notification because the upper age limit for the Scheduled Caste community candidates has been fixed at 37. Contending that upper age limit cannot be fixed in his case, this writ petition has been filed.



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3. The learned counsel appearing 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 relief as prayed for.

4. The respondents filed counter affidavit and the learned Special Government Pleader took me through its contents. The primary contention of the respondents is that Section 20(8)(ii) of Tamil Nadu Government Servants (Conditions of Service) Act 2016 will not come to the aid of the writ petitioner. The stand of the respondents is set out in paragraph Nos.11 to 14 of the counter affidavit. They read as under:-

“ 11. It is submitted that Section 20(8)(ii) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 contemplates that those who fall under any one of the category who possess degree qualification, such degree is not lower than of degree prescribed as qualification in the special rules for appointment to such post. However as per



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Section 20(8)(ii) of the Act, 2016, it envisages that prescribed holding of a Degree is a qualification. Further the said proviso postulates that for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification (10th Standard only), in case of such circumstances age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes who do not possess a general educational qualification (+2), which is higher than the minimum general educational qualification (10th).

12. It is further submitted that in so far as the post of Village Assistant is concerned, the prescribed qualification is 5th Standard which is below the minimum general qualifications.

13. I further submit that the object of the said provisions is possession of higher qualification is not relevant, the possession of the qualification of the candidates as prescribed by the Special



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Rules, has to be taken into consideration, as eligibility criteria is relevant. In the present case, the petitioner possessed the Degree qualification and crossed the age limit as prescribed under the Special Rules of the Tamil Nadu Village Assistants Service Rules. Even assuming that the petitioner seeks relaxation under Section 20(8) of the Act 2016, even this provision also does not apply in the case of the petitioner. Thus it is clear that the writ petitioner is not entitled to claim the relaxation in view of the above said provisions.

14. It is further submitted that Rule 12(d) of Tamil Nadu State Subordinate Service Rules now replaced as Section 20(8) Tamil Nadu Government Servants (Conditions and Services) Act 2016. In so far as the Village Assistant posts are concerned, they are governed by Tamil Nadu Village Assistants Services Rules. The special rules shall prevail over the general law.”

The learned Special Government Pleader also relied on the decision of the Hon'ble Division Bench reported in **2018 SCC**



OnLine Mad 13525 (S.Ganesan V. Tamil Nadu State

Legal Services Authority). He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The recruitment is for the post of Village Assistant. It is governed by the provisions of Tamil Nadu Village Assistants Service Rules. As per Rule 6, the educational qualification prescribed in the said post is “ pass in fifth standard in a recognised school ”. Rule 5 states that the upper age limit for general candidates is 30 years. In the case of BC / MBC and DC / SC / ST the upper age limit is 35 years. Since the entire nation was struck by pandemic, the Government of Tamil Nadu extended the upper age limit for all categories by two more years vide G.O.(Ms).No.91 Human Resources Management (S) Department dated 13.09.2021. The impugned notification is in tune with the aforesaid statutory rule laid down in Tamil Nadu Village Assistants Service Rules.



7. The question that arises for consideration is whether Section 20(8)(ii) of Tamil Nadu Government Servants (Conditions of Service) Act will come to the rescue of the writ petitioner. The said provision reads as under:-

“20. Qualifications-

...

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

(i) ...

(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, Most Backward Classes and De-notified 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:

Provided that, for direct recruitment to a



post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes or in respect of destitute widows of all castes, who do not possess a general educational qualification, which is higher than the minimum general educational qualification:

Provided further that for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by two years in respect of candidates belonging to Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities, who do not possess a general educational qualification, which is higher than the minimum general educational qualification.”

8. It is not in dispute that the qualification prescribed for the post of Village Assistant is lower than the degree of any recognised University. There is also no dispute that the writ petitioner is possessing B.A.(Tamil) degree. It is above the



minimum general qualification prescribed in Schedule III.

Schedule III states that the minimum general qualification is pass in 10th standard. A bare application of Sub-Section 8(ii) of Section 20 of the Act would indicate that the age limit prescribed in the said rules will not apply.

9. The only question that calls for consideration is whether the petitioner will fall within the scope of the first proviso. There is again no dispute that the qualification prescribed for the post is not higher than minimum general qualification. As per the proviso, if the candidate belonging to SC/ST is also having the minimum general qualification, then in his case the age limit is extendable by five years.

10. In my view, there is no conflict between the proviso and the main provision. It is well settled that a proviso cannot be so interpreted as to render the main provision otiose. They have to be harmoniously construed; if the requirements set out in the aforesaid provision are fulfilled, then for the degree holding Schedule Caste candidate, there will be no upper age limit and the Scheduled Caste candidate



having passed only 10th standard can get five more years above what has been prescribed.

11. I declare that the writ petitioner is entitled to participate in the impugned recruitment process. The age limit set out in the impugned communication will not apply to him. He is permitted to submit his application and it shall be accepted by the third respondent and his case will be considered on merits and in accordance with law. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.11.2022

Index : Yes / No
Internet : Yes/ No
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Note : Issue order copy on 11.11.2022.



To:

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G.R.SWAMINATHAN,J.

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