



W.P(MD)No.25603 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25603 of 2022

and

W.M.P(MD)Nos.19691 & 19692 of 2022

V.Killivalavan

... Petitioner

Vs

1.The State represented by

The Secretary,
Revenue and Disaster Management Department,
Fort St.George,
Chennai.

2.The District Collector,

Pudukottai District,
Pudukottai.

3.The Tahsildar,

Office of the Tahsildar,
Revenue and Disaster Management Department,
Pudukottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned notification of third respondent in Na.Ka.No.A2/6348/2022 dated 10.10.2022 published in Dina Malar Daily Newspaper on 11.10.2022 and quash the same and consequently, direct the



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respondents to rectify the error in the online website and permit the petitioner to participate in the recruitment process by considering the petitioner's representation, dated 25.10.2022.

For Petitioner : Mr.N.Mohideen Basha

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

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is resident of Pudukottai Taluk, Pudukottai District. He belongs to Most Backward Class (MBC) category. He is an aspirant for the post of Village Assistant. The Tahsildar, Pudukottai had issued recruitment notification calling for applications from eligible candidates. The petitioner fulfills all the other requirements except age. The upper age limit prescribed for MBC candidate is 37 years. The petitioner is now aged about 40 years. Contending that he is entitled to age relaxation, the present writ petition has been filed.

3. The case of the writ petitioner is that he got enrolled in Employment Exchange some 23 years ago. Therefore, he is entitled to age relaxation upto five years in view of G.O(Ms)No.21 (Labour and Employment Department), dated 02.02.2000. The said Government Order reads that if a registrant has to



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wait for three years, he will be given one year age relaxation and subject to the maximum of five years. Since the petitioner has been waiting for employment after such registration for 23 years, the petitioner is entitled to claim age relaxation for five years. This is the submission of the learned counsel appearing for the petitioner.

4. The learned Additional Government Pleader appearing for the respondents states that the said contention is applicable if the petitioner had been sponsored by Employment Exchange. Since the petitioner has applied only in the open market, he is not eligible to invoke the aforesaid G.O(Ms)No. 21 (Labour and Employment Department), dated 02.02.2000. He pressed for dismissal of the writ petition.

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

6. There is considerable force in the contention of the learned Additional Government Pleader for the respondents. Earlier, several such vacancies used to be filled up only by calling for the candidates through Employment Exchange. Following the decision of the Hon'ble Apex Court, the rule itself has now been amended. The amended Rule 2, reads as follows:



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“In the said Special Rules, -

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(1) for rule 2, the following rule shall be substituted, namely:-

“2. Appointment.- Appointment to the post shall be made by direct recruitment after calling for applications through advertisement in news papers, by Tom-Toming and by affixing notices or circulars in all the important Government Offices in the local area apart from calling for list from the Employment Exchange;”

7. However, it is not as if sponsorship from Employment Exchange is totally excluded. This is clear from the use of the explanation “apart from calling for list from the Employment Exchange”. Since the petitioner has already enrolled himself and his registration is still alive, the Employment Exchange can be mandated to sponsor the writ petitioner for the aforesaid vacancy. I, therefore, come to the conclusion that the petitioner has clearly made out the case for applicability for the aforesaid Government Order.

8. The petitioner is permitted to submit an application before the third respondent on or before **25.11.2022**. The third respondent will accept the petitioner's application. It is declared that since the petitioner's age is about only 40 years, he is very much eligible to participate in the subject recruitment



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process. His case will be considered on merits and in accordance with law.

The scope of the direction given by this Court is limited to holding that the petitioner is eligible to participate in the recruitment process. Nothing more shall be read beyond this. This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

16.11.2022

Index : Yes / No
Internet : Yes/ No
mga

Note: Issue order Copy on 23.11.2022

To

- 1.The Secretary,
Revenue and Disaster Management Department,
Fort St.George,
Chennai.
- 2.The District Collector,
Pudukottai District,
Pudukottai.
- 3.The Tahsildar,
Office of the Tahsildar,
Revenue and Disaster Management Department,
Pudukottai.



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G.R.SWAMINATHAN, J.

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