



W.P.(MD).No.11539 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11539 of 2009

Gnanaselva papa

... Petitioner

Vs.

- 1.The Commissioner,
Employment and Training,
Employment Commissionerate,
Guindy,
Chennai – 32.
- 2.The Assistant Director,
District Employment Office,
Santhome, Chennai,
Previously as The Assistant Director,
District Employment Office,
AnnaNager,
Chennai.
- 3.The Employment Officer,
District Employment Office,
Santhome,
Chennai.

... Respondents

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 pertaining to the entry made in the employment registration card in W/7409/89 dated 16.02.2009 and quash the same and direct the respondents to



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give seniority in the employment registration from 19.06.1989 and further direct the respondents to give priority to the petitioner in the immediate future employment to be filled up through the second and third respondent Employment Exchange in the interest of justice.

For Petitioner : Mr.S.Suresh Kumar

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

ORDER

This Writ Petition has been filed to quash the entry made in the employment registration card in W/7409/89 dated 16.02.2009 and direct the respondents to give seniority in the employment registration from 19.06.1989 and to give priority to the petitioner in the immediate future employment.

2. When the Writ Petition was listed for hearing on 12.11.2009, 15.12.2009, 17.02.2010, 18.02.2010 and 07.02.2014, the learned counsel appearing for the petitioner as well as the petitioner did not appear before this Court. Hence the Writ Petition was dismissed for non-appearance. Then the petitioner had filed the restore petition along with condone delay petition and on 20.10.2022 the Condone Delay petition was allowed. Today, the restoration petition is listed before this Court. The Writ Petition is restored and this Court



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proceeded with the main petition to hear the case on merits.

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3. The brief facts as stated in the affidavit are that the petitioner has completed SSLC and registered in the District Employment Office, Nagercoil on 27.06.1985 and the registration number is W/3852/85. The petitioner has completed Lower Grade in Typewriting and Shorthand and registered the same in the year 1987. Thereafter, the petitioner has shifted his residence at Chennai in the year 1989 and by that time, he had completed 12th Standard, Higher Grade in Typewriting and Shorthand. Hence, the petitioner transferred his employment card to Chennai with District Employment Exchange, Anna Nagar and registered Higher Grade in Typewriting and Shorthand on 19.06.1989 and the Registration Number is W/7409/89. In the year 1998, the petitioner was called for certificate verification for the post of Typist/Steno, but the petitioner was not given any appointment. The petitioner's employment card was renewed till 16.02.2009. The petitioner approached the employment exchange office regularly and the officials informed that if any suitable post is available, it will be informed to the petitioner. Believing the words, the petitioner was in a fond hope that she would get employment in the Government office. In the meantime, the petitioner was qualified with Computer Literacy and on 12.06.2009, the petitioner approached the second and third respondents to



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register the said qualification. However, it was informed to the petitioner that the petitioner cheated the Department and renewed the employment card even after getting employment in the year 1998. The contention of the petitioner is that he was not given employment as stated by the third respondent. On verification, the second respondent came to know that the petitioner was not employed in any Government Department and someone was given employment instead of the petitioner by forging the employment registration of the petitioner. The petitioner submitted representation to the respondents to take necessary action against the erred officials. The petitioner also filed petition seeking information regarding the alleged employment given in the year 1998. Aggrieved over the entire issue the petitioner had filed the present writ petition, but the same was dismissed for non-prosecution.

4. The learned counsel appearing for the petitioner relied on judgment rendered by this Court in W.P.(MD).No.21129 of 2021 dated 08.07.2022, wherein, the learned Single Judge has relied on Government Order in G.O.(D).No.584, Labour and Employment (D2) Department, dated 08.12.2014. In the said Government Order, it is stated that if any registered candidates failed to renew the registration in the year 2011, 2012 and 2013, they are granted three months time to renew the registration from 08.12.2014. Thereafter, from 22.08.2017 for the second time, special concession was granted to the



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registered candidates who were failed to renew their registration from 01.01.2011 to 31.12.2015 and renew it within a period of three months. Even for the third time, special concession was granted to the registered candidates who failed to renew their registration from 01.01.2011 to 31.12.2016 and renew it within a period of three months, with a condition that the requests received after the period of three months will be rejected. In the present case, the petitioner has not renewed from the year 2009 onwards. The said Government Order is not covering the year 2009. Several opportunities were granted to the registered candidates to renew the registration from 2011 to 2019 and the petitioner has not availed the opportunities of the concession granted from the year 2011 to 2019. Moreover, the petitioner did not renew from 2009 onwards and there is no Government Order directing the respondents to renew if it is lapsed from 2009 onwards. Moreover, in the aforesaid Government Order, a cutoff date was fixed as 01.01.2014. The petitioner was not vigilant enough to renew the registration prior to the cutoff date.

5. At this juncture, the petitioner's claim cannot be considered for one more reason since the petitioner is 54 years of age as on date. The age limit fixed for any of the employment is either 30 or if belongs to Scheduled Caste Community, the age limit is 35 years. Since the petitioner is over age, it will be futile efforts to renew the registration at this stage. Therefore, the petitioner's



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claim cannot be considered. Even otherwise the selection process of granting appointment based on employment seniority was held as illegal in several cases. In the case of ***Excise Superintendent Malkapatanam Vs. K.B.N.Visweshwar Rao & others*** reported in ***1996(6)SCC 216***, the Hon'ble Supreme Court has held that the employer ought to call for applications from eligible candidates through newspaper publication, Employment Exchange and notice board from prominent places. Thereafter ought to process the application and should grant employment on merits and ability. Therefore, the petitioner cannot rely only on the Employment Exchange seniority alone for employment. Since only eligible and meritorious candidates can be selected after conducting written test and interview. Therefore, the claim of the petitioner cannot be entertained and the plea is rejected.

6. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs.

07.11.2022

Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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