



W.P.No.5886 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.5886 of 2023

K.S.Ilangovan

.. Petitioner

Vs.

1. High Court of Judicature at Madras
Rep. by the Registrar General
Madras High Court
Tamil Nadu.
2. The Chief Secretary to Government/Chairperson
Selection Committee
U.T. of Puducherry.
3. The Secretary to Government (Personal)/Member
Selection Committee
U.T. of Puducherry.
4. The Secretary to Government (Law)/Member Secretary
Selection Committee
U.T. of Puducherry.
5. Union of India
Rep. by its Administrator
U.T. of Puducherry.



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6. K.S.Mohandass

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents 1 to 5 to redo the selection for the posts of Public Prosecutors for Puducherry in Madras High Court and Special Government Pleader Service matters (Writs) as per Section 24(7) of Criminal Procedure Code, 1973 and Rule 3(v) of Puducherry Law Officers (Appointment and Conditions of Service) Rules 2021 for PP appointment and the criteria laid down in Rule 28(3) of Puducherry Law Officers (Appointment and Conditions of Service) Rules 2021 for Spl.G.P. appointment in pursuance of my application dated 23.06.2021 within a time frame.

For the Petitioner : Mr.K.S.Ilangovan
Party-in-Person

For the Respondents : Mr.S.Kaithamalaikumar
for Respondent-1

Mr.S.Ravee Kumar
Government Pleader (Pondy)
for Respondents 2 to 5

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner, who is a practising advocate of this Court (Enrolment No.566/2004) with 19 years of experience and partner of



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a law firm Achari and Antoni Associates, has filed this writ petition seeking a direction to the respondents 1 to 5 to redo the selection for the posts of Public Prosecutors for Puducherry in Madras High Court and Special Government Pleader Service matters (Writs) as per Section 24(7) of Criminal Procedure Code, 1973 and Rule 3(v) of Puducherry Law Officers (Appointment and Conditions of Service) Rules 2021 for Public Prosecutor appointment and the criteria laid down in Rule 28(3) of of Puducherry Law Officers (Appointment and Conditions of Service) Rules 2021 for Special Government Pleader appointment in pursuance of his application dated 23.06.2021.

2. The petitioner, appearing as party-in-person, submitted that the Puducherry Law Officers (Appointment and Conditions of Service) Rules, 2001 was notified on 11.06.2021, the Administrator of Union Territory of Puducherry, the fifth respondent herein, has issued a notification dated 16.06.2021 calling for applications for the appointment of Law Officers and therefore, he applied to the post of Special Government Pleader Service matters (Writs) on 23.06.2021, enclosing all the required credentials. He undertook the written and oral test held on 14.07.2022.



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3. In the meanwhile, an amendment to Sub-rule (1) of Rule 3 of the Puducherry Law Officers (Appointment and Conditions of Service) Rules, 2001 was made. As per the amended Rule, fresh notification for the post of Public Prosecutor was called on 06.12.2021.

4. Referring to Section 24(1) of the Criminal Procedure Code which states that every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor for conducting cases in the Court, he contended that in the present case, the Public Prosecutor appointed by Selection Committee did not have any experience in the High Court, as he was practising only in the Trial Court and that in view of the notification amending the Rule on 06.07.2021, the procedural aspect in selection has been completely overlooked and therefore, he sought a direction to re-do the selection process again.

5. Placing reliance on the amended Rule 3(1)(v) of the Puducherry Law Officers (Appointment and Conditions of Service)



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Rules, 2001, which states that no person shall be eligible for appointment as a Public Prosecutor for the High Court, unless he has been in practice as an Advocate for not less than seven years in High Court, he contended that notification dated 06.07.2021, modifying the earlier notification dated 16.06.2021, has issued only to favour some one for being appointed as the Public Prosecutor.

6. Per contra, learned Special Government Pleader submitted that the contentions made do not have any merit and therefore, the writ petition has to be dismissed in limine. He further submitted that the sixth respondent, who was found suitable to be appointed as the Public Prosecutor for Puducherry, has five years of experience as a Judge in the Family Court during the period 1997-2002 and that he served as a Public Prosecutor in the District Court, Puducherry for two terms. Further, he has completed 50 years of practice as an Advocate. He also submitted that when the petitioner has not even applied for the post of Public Prosecutor, he cannot make wild allegations against the sixth respondent.

7. In reply, the petitioner submitted that he is not pressing the



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first part of the prayer and he is concerned only with the second part of the prayer as to why the official respondents have not come forward to appoint any one as Special Government Pleader Service matters (Writs), when several eligible candidates have applied for the same.

8. Learned Special Government Pleader submitted that the Selection Committee have not found any suitable candidate in the course of interview and therefore, a separate selection process may be initiated by issuing a fresh notification and hence, the petitioner is not entitled to maintain the writ petition.

9. In view of the submission made by learned Special Government Pleader, we are unable to find any merit in the contention of the petitioner, particularly when the sixth respondent, who has been appointed as the Public Prosecutor, has immense experience as Judge for five years during the period 1997-2002 in the Family Court, besides serving as a Public Prosecutor for two terms in the trial Court and has 50 years of practice as lawyer. We do not find any merit in the writ petition. Thus, the writ petition fails and the



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same is dismissed.

(T.R., ACJ.) (D.B.C., J.)
01.03.2023

Index : Yes/No
Neutral Citation : Yes/No

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To

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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J

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