



W.P.No.29580 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.29580 of 2011
and M.P.No.1 of 2011

N.Mathankumar

... Petitioner

Vs.

1.The Director of Employment and Training
Chennai – 600 005.

2.The District Employment Officer
Thiruvannamalai – 606 602.

3.Polur Selection Grade Town Panchayat
Rep.by its President
Polur.

4.The Executive Officer
Polur Selection Grade Town Panchayat
Polur.

5.J.Senthil Kumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd



W.P.No.29580 of 2011

respondent pertaining to the Letter dated 26.08.2011 and the records pertaining to the Resolution dated 15.09.2011 bearing subject No.137, of the 3rd respondent and quash the same and consequently directing the 2nd respondent to forward a fresh list of candidates by including the name of the petitioner to the 3rd respondent for the post of Fitter.

For the Petitioner : Mr.K.V.Sundararajan

For the Respondents : Mr.M.Muthuswamy
Government Advocate for RR1 to 3
Mr.V.Kamalanathan for R4
Mr.V.R.Shanmuganathan for R5

ORDER

This Writ Petition is filed to call for the records on the file of the second respondent pertaining to the letter dated 26.08.2011 and the records on the file of the third respondent pertaining to the results dated 15.09.2011, whereby, the fifth respondent was appointed to the post of Fitter in the office of the fourth respondent - Polur Selection Grade Town Panchayat.

2.The grievance of the petitioner is that the petitioner is also fully qualified to be appointed as Fitter. As a matter of fact, the petitioner registered



W.P.No.29580 of 2011

with the District Employment Exchange as on 30.10.1996, whereas, the fifth respondent got registered only on 27.11.1997. Therefore, when the petitioner, who is senior in the employment registration and when the appointment is made only by calling for names from the employment and based on employment seniority, the petitioner ought to have been appointed and he has been overlooked, the fifth respondent is appointed.

3.A counter affidavit is filed on behalf of the respondents, in which it is stated that in respect of the post in question, upper age limit is 32 years and therefore, the petitioner whose date of birth is 29.07.1977, had crossed the upper age limit as on the date of calling for applications. Therefore, they pray that there is no merit in the Writ Petition.

4.*Mr.K.V.Sundararajan*, learned counsel appearing on behalf of the petitioner would submit that if it is the case of the petitioner that 32 years is upper age limit, then the fifth respondent appointed to the said post is also born on 20.06.1979 and he has also crossed the age limit as on 19.06.2011. When the applications were called for in the month of August 2011, even the fifth respondent was over aged.



W.P.No.29580 of 2011

WEB COPY

5.To this, the learned Government Advocate appearing on behalf of the respondents would bring the notice of this Court that the fifth respondent is not only considered in the Backward Class quota, but he was also dependent of the Ex-Servicemen and therefore, he could have availed the necessary age relaxation in respect thereof.

6.I have considered the rival submissions made by the learned counsel on either side and perused the material records of this case.

7.Firstly, when the petitioner is not within the age limit of 32 years, then his case cannot be considered. Even for the sake of argument, if the appointment of fifth respondent is erroneous in law, that can only result in the fifth respondent being dis-lodged from the said post and the consequential claim that the petitioner to be appointed cannot be considered.

8.In that view of the matter, when the petitioner is ineligible to be appointed, merely on an academic basis, the scrutiny of the appointment of the fifth respondent cannot be made. Therefore, finding no merits in this Writ



W.P.No.29580 of 2011

Petition, the same stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

30.11.2023

Jer

Index:Yes

Speaking Order: Yes

Neutral Citation: Yes

To

1.The Director of Employment and Training
Chennai – 600 005.

2.The District Employment Officer
Thiruvannamalai – 606 602.

3.The President
Polur Selection Grade Town Panchayat
Polur.

4.The Executive Officer
Polur Selection Grade Town Panchayat
Polur.



WEB COPY



W.P.No.29580 of 2011

D.BHARATHA CHAKRAVARTHY, J.,

Jer

W.P.No.29580 of 2011

30.11.2023