



WEB COPY



W.P. No.26167 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:28.02.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.26167 of 2015

A. Sathya

... Petitioner

Vs.

1.The Principal Secretary
Rural Development Department
Secretariat, Fort, St. George
Chennai-600009.

2. The Director
Rural Development Department
Panagal Building
Saidapet, Chennai-600015.

3. The District Collector
Collectorate
Salem.

4. The Commissioner
Kollathur Panchayat Union
Kollathur
Salem District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records



W.P. No.26167 of 2015

relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.595/2015/A1 dated 03.08.2015, to quash the same and consequently direct the 4th respondent to appoint the petitioner as Night watchman in the Kolathur Panchayat Union.

For Petitioner : Mr. J. Jayamalan
For Mr. S. Nedunchezhiyan
For Respondents : Mr. T. Arunkumar
Additional Government Pleader for R1 to R3
Mr. B. Anandan For R4

ORDER

Challenging the proceedings of the 4th respondent in Na.Ka.No.595/2015/A1 dated 03.08.2015 the petitioner has filed the present Writ Petition, whereby her name was rejected to the post of Night Watchman in the Kolathur Panchayat Union.

2.It is averred in the Writ Petition that the 3rd respondent, Viz., District Collector, Salem, issued a Letter Memorandum in Na.Ka.No.2007/2015/T-3 directing the 4th respondent to fill up the post of Watchman in the Panchayat Unions. Based on the above, the name of the petitioner was sponsored by the Salem Employment Exchange. Thereafter, the 4th respondent sent a call



W.P. No.26167 of 2015

letter dated 19.03.2015 to the petitioner herein, to appear for interview on 30.03.2015 for the post of Night Watchman. Subsequently, the Commissioner of Panchayat Union, Kolathur, by proceedings dated 25.03.2015, informed that the interview was postponed for administrative reasons.

3.While so, the 4th respondent issued another call letter dated 21.04.2015, directing the petitioner, to appear for interview on 05.05.2015 for the post of Watchman. Accordingly, she appeared for interview on 05.05.2015. However, no final order was passed on the interview held on the said date. While so, the 4th respondent issued a fresh notification dated 23.06.2015, to fill up the vacancy in the post of Watchman in general turn non-priority (GT G NP). The scale of Pay of Watchman is Rs.4800-10,000 and Grade Pay of Rs.1300/-.

4.The 4th respondent without publishing the result for the interview held on 05.05.2015, based on the fresh notification, completed the selection



W.P. No.26167 of 2015

process and published the results vide the proceedings impugned in this

Writ Petition.

5.The learned counsel for the petitioner would contend that the 4th respondent is duty bound to publish the results for the interview held on 05.05.2015 and without publishing the results, the 4th respondent cannot issue a fresh notification, to fill up the vacancy in the post of Watchman in general turn non-priority (GT G NP), which is illegal and unsustainable.

6.The learned counsel appearing for the 4th respondent would submit that the petitioner had already filed a Writ Petition in W.P.No.19878 of 2015 and this Court by an order dated 07.07.2015 directed the 4th respondent to publish the results of the interview held on 05.05.2015 within a period of two days from the date of receipt of that order. Accordingly, the 4th respondent published the results and rejected the candidature of the petitioner, stating that if a woman is appointed in Night Watchman post, during her duty time, there may be threat to her safety, life and limbs by the



W.P. No.26167 of 2015

anti social elements. Further, in the interview held on 05.05.2015, 9 out of 19 open market applicants, all of them were rejected, as they failed to fulfil the priority conditions.

7.It is the contention of the petitioner that it is a clear case of discrimination on the ground of sex and it is a clear case of denial of employment only on ground of sex. In view of the change in the society, working pattern and advancement in education this concept no longer holds good and such a concept has been fast disappearing and sex based distinction or discrimination should be condemned unless there is exceedingly persuasive justification and it substantially furthers an important public interest. The approach that the woman forms part of the family and she cannot have an independent status or economic freedom *de hors* the family is no longer good. Hence the impugned order is arbitrary and violative of Articles 14, 15 and 16 of the Constitution.

8.In such view of the matter, the order impugned in this Writ Petition



W.P. No.26167 of 2015

is set aside. Though the recruitment process for the post of Watchman in the Panchayat Union, Kolathur, has been completed, the respondents are directed to accommodate the petitioner in any of the forthcoming selection process, considering her educational qualification and also by granting age relaxation.

9. With the above direction, this Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

28.02.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Jer



W.P. No.26167 of 2015

WEB COPY To

1. The Principal Secretary
Rural Development Department
Secretariat, Fort, St. George
Chennai-600009.

2. The Director
Rural Development Department
Panagal Building
Saidapet, Chennai-600015.

3. The District Collector
Collectorate
Salem.

4. The Commissioner
Kollathur Panchayat Union
Kollathur
Salem.



WEB COPY



W.P. No.26167 of 2015

J.NISHA BANU, J.,

Jer

W.P. No.26167 of 2015

28.02.2023