



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.12.2023

Pronounced on : 20.12.2023

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**W.P.No.29789 of 2012**

V.Ravikumar

... Petitioner

Vs.

1. The Director,
Animal Husbandry, Dairying and Fisheries Department,
D.M.S Compound,
Teynampet, Chennai – 600 006.

2. The Deputy Director,
Fisheries Department (Regional Office),
5-696, Avvaiyar Street,
Opposite to Collectorate,
Dharmapuri – 636 705.

3. The Assistant Director,
Fisheries Department,
Bharathi Nagar, 3rd Cross Santhaipeet,
Krishnagiri Town and District.

4. The District Employment Officer,
District Employment Exchange,
Dharmapuri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the second respondent impugned order vide Na.Ka.1115/A/2012 dated 25.10.2012, and to quash the same consequently direct the second respondent to reinstate the petitioner in the post of Fisheries Development Assistant in



the Fisheries Department with all service benefits including monetary benefits

WEB COPY

For Petitioner : Mr.V.Govardhanan
for Mr.G.Mohammed Aseef

For Respondents : Mr.Ameedius,
Government Advocate

ORDER

Heard Mr.V.Govardhanan, learned counsel for the petitioner and Mr.Ameedius, learned Government Advocate appearing for the respondents.

2. The brief and disputed facts for disposal of this Writ Petition are as under:-

2.1 The respondent herein called for list of eligible candidates from the District Employment Office, Dharmapuri through Letter No. Na.Ka.115/A/2012 dated 12.06.2012 for filling up the post of Fishery Assistant in Dharmapuri District. In response thereto, the District Employment Officer sponsored the list of two eligible candidates through Letter No.Na.Ka.A3/X2/66/2012 dated 30.06.2012 and the name of another candidate was sponsored through Letter 20.07.2012. The name of the petitioner herein is one among the three sponsored candidates by the District



WEB COPY

Employment Officer. Thereafter, the interviews were conducted by the duly constituted Selection Committee, headed by the District Collector and the petitioner herein was selected for the post of Fishery Assistant and he was appointed as such through the Order No.Na.Ka.3672/A1/2012 dated 10.09.2012. Accordingly, the petitioner joined the services on 17.09.2012. While the petitioner was working as such, the impugned proceedings dated 25.10.2012 was served upon him, terminating the services of the petitioner on the ground that he was over-aged, as on the date of his appointment. Aggrieved by the said order, the present Writ Petition is filed.

3. The upper age limit that is prescribed for the post in question in terms of the Rules governing the post is 30 years. The Date of Birth of the petitioner is 25.06.1977. The respondents have taken to consideration 01.07.2012 as a relevant date for the purpose of fixing the eligibility of the candidate for the post in question. While treating 01.07.2012 as a crucial date, the respondents have concluded that the petitioner has crossed the age of 30 years, as on the date of his appointment on 10.09.2012 and thus, terminated his services. No notice was issued to the petitioner before termination of his services.



WEB COPY

4. It is the contention of the learned counsel appearing for the petitioner that the respondents have called for a list of eligible candidates from the District Employment Officer through Letter No. Na.Ka.115/A/2012 on 12.06.2012 and the name of the petitioner was sponsored by the Employment Exchange on 30.06.2012, on having found that the petitioner was very much eligible for the post of Fishery Assistant. He also further contended that the State Government, having taken note of the fact that there was ban on recruitment for a period of five years, issued G.O (Ms) No.98, P & AR Department dated 17.07.2006, relaxing the upper age limit for entering into Government Service by five years to enable the unemployed youth affected by the ban order to apply for the Government jobs. Thus, it is contended that by virtue of the said Governmental order, the upper age limit fixed for the post in question is 30 years stood enlarged to 35 years and therefore, the petitioner is very much eligible for the post in question.

5. On the other hand, the learned Additional Government Advocate appearing for the respondents contended that the petitioner was very well informed while appointing him as Fishery Assistant that the same is



WEB COPY

a temporary appointment and subject to condition that he may be hoosted at any time, if he is found ineligible or in case, if he is found to have produced any false credentials. Insofar as G.O (Ms) No.98, P & AR Department dated 17.07.2006 is concerned, the respondents failed to answer the same in the counter except contending that the said Governmental Order has no application to the selection in question.

6. In the light of the above rival contentions, the only issue that arise for consideration is as to what is the exact date that is required to be taken into account for the purpose of calculating the age of the petitioner herein and the relaxation of age limit that was granted by the Government in G.O (Ms) No.98, P & AR Department dated 17.07.2006 has application to the facts of the case on hand.

7. As already noted above, the respondents herein have called for a list of eligible candidates from the District Employment Office, Dharmapuri through their Letter No. Na.Ka.115/A/2012 dated 12.06.2012. In a way, this is in the nature of a notification issued for direct recruitment. If that is taken as the initiation for the process for selection and appointment, that date



WEB COPY

should be the relevant date for all practical purposes. Accordingly, the District Employment Office have scrutinized the particulars of the petitioner and the other candidates as on that date and sponsored the name of the petitioner through Letter No.Na.Ka.A3/X2/66/2012 dated 30.06.2012. However, the respondents have considered 01.07.2012 as the relevant date for the purpose of calculating the upper age limitation of the petitioner and there is no justification given by the respondents for choosing crucial date as 01.07.2012.

8. A perusal of the G.O (Ms) No.98, P & AR Department dated 17.07.2006 issued by the Government shows that relaxing the upper age limit by 5 years for appointment to the post of Government Service is very categorical in its terms and there is nothing in the Governmental Order to suggest that the same has no application to the selection process in question. Admittedly, the post of Fishery Assistant in office of the Assistant Director of Fisheries and the ban that was imposed by the State Government was also applicable to the recruitment to the post in the said corporation. Therefore, the contention of the respondents that the relaxation of the age granted through the said Governmental Order has no application to the selection in



question cannot be accepted.

WEB COPY

9. Admittedly, the Date of Birth of the petitioner was 26.07.1977 and as on the date of calling for list of eligible candidates on 12.06.2012 by the respondents is taken into consideration, the petitioner is well within the age of 35 years and therefore, the question of petitioner being over-aged for the post of Fishery Assistant does not arise. Any delay in finalizing the selection process, shall not result in disqualifying the candidates once they were eligible on the date of their application. However, the respondents, without looking into these aspects after having selected the petitioner for the post of Fishery Assistant and allowed him to join the post, in an arbitrary manner, terminated his services by issuing the impugned proceedings solely on the ground that the petitioner was over aged.

10. At this stage, it is also necessary to notice that out of 72 vacancies of the Fishery Assistant, 8 vacancies were available in the Dharmapuri District. As against the request for sponsoring candidates for the said 8 posts, the Employment Exchange could find only 3 eligible candidates and the remaining 5 posts were remained unfilled for want of eligible candidates.



Under the said situation also, the respondents have acted in an arbitrary and mechanical manner and terminated the services of the petitioner.

WEB COPY

11. In the light of the above, the impugned order in Na.Ka.No.1115/A/2012 dated 25.10.2012 is liable to be set aside and accordingly, the same is set aside. This Writ petition is allowed, directing the respondents to reinstate the petitioner into service as Fishery Assistant in the office of the Assistant Director of Fisheries Development, Dharmapuri and the petitioner is entitled for all the service benefits including the continuity of service, except for backwages. The respondents are further directed to comply with this order as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

20.12.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Director,
Animal Husbandry, Dairying and Fisheries Department,
D.M.S Compound, Teynampet, Chennai – 600 006.



WEB COPY



W.P.No.29789 of

2. The Deputy Director,
Fisheries Department (Regional Office),
5-696, Avvaiyar Street, Opposite to Collectorate,
Dharmapuri – 636 705.

3. The Assistant Director,
Fisheries Department,
Bharathi Nagar, 3rd Cross Santhaipet,
Krishnagiri Town and District.

4. The District Employment Officer,
District Employment Exchange,
Dharmapuri District.



WEB COPY



W.P.No.29789 of

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.No.29789 of 2012

20.12.2023