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W.P.No.28131 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No. 28131 of 2016

K.Mageswaran

... Petitioner

Versus

1.The State,
Rep. by the District Collector,
Tiruvallur District.
Tiruvallur.

2.The Personal Assistant to Collector (Development)
O/o The District Collector,
Tiruvallur District.

3.The Commissioner,
Chozhavaram Panchayat,
Chozhavaram,
Tiruvallur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to letter Na.Ka.11352/2015/PA3 dated 10.03.2016 of the second respondent and quash the same and further direct the third respondent to issue appointment order to the petitioner appointing him in the



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post of Office Assistant in Chozhavaram Panchayat Union on the basis of the selection list of the Appointments Committee in Na.Ka.No.297/2015/A1 dated 06.10.2015 of the Chozhavaram Panchayat Union, in so far as the petitioner is concerned and pass such other or further orders as this Court may deem fit and proper considering the facts and circumstances of the case.

For Petitioner : Mr.A.E.Ravichandran

For Respondents : Mr.T.Chezian
Additional Government Pleader

ORDER

This writ petition has been filed to call for the records pertaining to letter Na.Ka.11352/2015/PA3 dated 10.03.2016 of the 2nd respondent and quash the same and direct the 3rd respondent to issue appointment order to the petitioner appointing him in the post of Office Assistant in Chozhavaram Panchayat Union on the basis of the selection list of the Appointments Committee in Na.Ka.No.297/2015/A1 dated 06.10.2015 of the Chozhavaram Panchayat Union.

2. The specific case of the petitioner is that he belongs to Scheduled Caste community and he studied up to SSLC (10th failed) and could not



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pursue further studies in view of the family circumstances. He registered with the District Employment Office, Tiruvallur. In furtherance of the same, the 3rd respondent called for a list of eligible candidates to fill up two posts of Office Assistant in Chozhavaram Panchayat Union. According to the writ petitioner, out of two posts, one post is for general category and one post is reserved for Scheduled Caste. The 3rd respondent had issued a call letter on 10.04.2015 wherein the petitioner was asked to attend the interview on 17.04.2015 and the writ petitioner was selected for appointment to the post of Office Assistant by the Appointment Committee and the appointment order also issued on the very same day on 17.04.2015. However, the petitioner was not allowed to join duty as some clarification and issues have been raised in the list forwarded by the Employment Exchange. Thereafter, the 3rd respondent initiated fresh selection process by notifying the same two vacancies for the post of Office Assistant in Chozhavaram Panchayat Union vide Advertisement dated 27.07.2015 in Dhinamani daily newspaper. The petitioner once again applied for the said post and the 3rd respondent had sent a call letter on 25.09.2015 and asked him to attend the interview on 06.10.2015 and finally the Appointment Committee had selected the



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petitioner to the post of Office Assistant under General-Priority Category and the same was forwarded to the 1st respondent for approval. However, the 1st respondent vide letter dated 10.03.2016 had rejected the petitioner's appointment and the same has been challenged in the present writ petition. According to the writ petitioner, the Appointment Committee had also favorably considered the petitioner's name and the 1st respondent has no right to reject the name forwarded by the Appointment Committee.

3. The 3rd respondent had filed a counter admitting the facts narrated in the writ petition. However, according to the 3rd respondent, the 1st respondent is entitled to issue concurrence of the selection made by the Appointment Committee. However, based on the enquiry report, the 1st respondent rightly rejected the proposal of the Commissioner, Chozhavaram Panchayat Union/3rd respondent on the ground that the communal reservation of the selected applicants did not concur with the regulations in G.O.Ms.NO.312, RD & PR Department dated 03.11.2010. The respondents, therefore sought for dismissal of the petition.



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4. Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader for the respondents.

5. This Court considered the rival submissions of counsel on either side. Admittedly, the petitioner and one Shanmuga Priya were selected for the post of Office Assistant by the 3rd respondent. It is seen from the proceedings in Na.Ka.No.297/2015/A1 dated 27.07.2015 that out of the list prepared for appointment, there were no eligible Hindu Adidraavidar candidates and only in such circumstances, the petitioner and the other candidate one Shanmugapriya were short listed and appointed. It is also seen that the appointment committee has also approved the said appointment on the very same day. However, when the matter was taken to the 1st respondent for approval, he has rejected the same citing that there are two other candidates namely R.Balaji and A.D.Sandhya, who were more eligible than the writ petitioner and the said Shanmugapriya. In fact, in the impugned order, the 1st respondent has not even been able to assert any irregularity in the selection process and he merely requires the 3rd respondent to furnish



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particulars as to reasons for which the petitioner and the said Shanmuga Priya were given preference and also cited G.O.Ms.No.541, Personal and Administrative Reforms Department, dated 24.09.1989. A copy of the said G.O is also annexed in the typed set of papers filed by the writ petitioner. On perusal of the same, it reveals that the said G.O was passed only to give preference to priority candidates. However, the concluding part of the G.O specifically states that the Government can fill up the candidates from non-priority candidates in the event of non-availability of candidates in the priority category. In such view of the matter, this Court feels that the 1st respondent has not applied his mind to the proceedings of the 3rd respondent as well as the appointment committee who have clearly stated that there are no eligible candidates. Further, out of the two candidates, who are suggested by the 1st respondent, one R.Balaji's name does not even figure in the candidates short listed. The other candidate namely A.D.Sandhya, whose name is figuring as Sl.No.57 in the list. She is not a widow. In fact, she resides outside the locality.



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6. In view of the above facts and circumstances of the case, this Court finds that the order of the 1st respondent is without merit and deserves to be quashed for the aforesaid reasons and discussions. This Court is inclined to allow the writ petition. It is also seen that at the time of admission, an interim order was also granted directing the 3rd respondent to keep one post of Office Assistant in the Chozhavaram Panchayat Union vacant, pending disposal of the writ petition. In view of the same, the respondents are directed to appoint the writ petitioner in the said vacant post within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No cost.

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Index: Yes/ No
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P.B.BALAJI, J.,

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To

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O/o The District Collector,
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