



W.A.No.2191 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.08.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2191 of 2023
and C.M.P.No.18883 of 2023

1.The State of Tamil Nadu represented by
the Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9.

2.The District Collector,
Thiruvannamalai.

3.The Revenue Divisional Officer,
Thiruvannamalai.

4.The Tasildhar,
Polur.

5.The District Employment Officer,
Thiruvannamalai.

.. Appellants

Vs.

R. Anbalagan
S/o. Ranganathan,
Mottur Village, Poondi Post,
Polur Taluk - 606 751,
Thiruvannamalai - 606 751.

.. Respondent



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Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 15.12.2021 passed in W.P.No.12680 of 2012 on the file of this Court.

For Appellants : Mrs.Mythreye Chandru
Special Government Pleader

JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

Challenging the order dated 15.12.2021 passed by the learned Judge in W.P.No.12680 of 2012, the appellants / State have preferred this writ appeal.

2. According to the appellants, the Tahsildar, Polur notified 18 vacancies to the post of Village Assistant to the District Employment Officer, Tiruvannamalai, vide letter No.A3/695/2007 dated 17.06.2011. As per G.O.Ms.No.631, Revenue Department, dated 07.11.2008, the minimum qualification prescribed for the post of Village Assistant is V standard pass and the maximum qualification is 10th std fail. Accordingly, the District



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Employment Officer sponsored the list of suitable candidates in the ratio of

1:5, vide letter dated 21.06.2011. While so, the respondent herein preferred a writ petition in WP.No.12680 of 2012, seeking a writ of mandamus, directing the District Employment Officer, to sponsor his name for the post of Village Assistant to the Tahsildar, Polur, within a time frame and consequently, directing the Tahsildar, Polur to appoint him for the said post. Upon hearing the submissions, the learned Judge disposed of the said writ petition, by issuing positive directions to the appellant authorities in favour of the respondent herein, by order dated 15.12.2021, which is impugned herein.

3. The learned Special Government Pleader appearing for the appellants submitted that the respondent is not an eligible candidate for the post of Village Assistant, because, the minimum qualification prescribed for the said post is V Standard pass and the maximum qualification is X Standard fail, whereas, the respondent herein possesses the higher qualification of X Standard pass and hence, sponsoring his name to the post of Village Assistant would deprive the chances of getting appointment by



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the persons, who possess the prescribed qualification. Without properly appreciating the said aspect, the learned Judge erred in considering the claim of the respondent herein and disposed of the writ petition in his favour. Therefore, the learned counsel sought to allow this appeal by setting aside the order passed by the learned Judge.

4. Heard the learned Special Government Pleader appearing for the appellants and perused the documents enclosed in the typed set of papers, more particularly, the order impugned herein.

5. It appears that there is no positive direction issued by the learned Judge to the appellant authorities to appoint the respondent to the post in question. For better understanding, the relevant passage of the order impugned herein is extracted below:

“6. From the records, it is seen that at the time of admission this Court has granted interim order to keep one post vacant. According to the learned counsel for the petitioner the petitioner's name has not been sponsored by the fifth respondent for the reason that the petitioner's qualification of pass in the 5th standard has not been registered in the District Employment Office. But the petitioner has acquired higher qualification of 10th



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standard, +2 and degree and the same has been registered in the fifth respondent District Employment office. Further he relied upon the order passed by this Court in W.P. No.23539 of 2010 dated 08.09.2011 wherein it is held that possessing higher qualification than the prescribed minimum qualification is not a bar for appointment to the said post and the First Respondent by accepting the order of this Court has issued Circular dated 09.10.2012. Therefore this Court is of the view that the stand taken by the fifth respondent is not sustainable in law.

7. In view of the same, this court directs the fifth respondent to sponsor the name of the petitioner to the post of Village Assistant and the fourth respondent is directed to consider the case of the petitioner and take appropriate decision with regard to the appointment to the above said post if otherwise eligible, on merits and in accordance with law as expeditiously as possible not later than twelve weeks (12) from the date of receipt of a copy of this order.”

6. It is clear from the above extract that taking note of the order dated 08.09.2011 passed in WP.No.23539 of 2010, in which, it was observed that possessing higher qualification than the prescribed minimum qualification is not a bar for appointment to the post and the same was also accepted by the authorities vide circular dated 09.10.2012, the learned Judge directed the District Employment officer, Thiruvannamalai, to sponsor the name of the respondent to the Tahsildar, Polur. It is also clear



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from the order impugned herein that the Tahsildar, Polur was directed to consider the candidature of the respondent and take appropriate decision with regard to appointment to the post of Village Assistant, if he is otherwise eligible, only on merits and in accordance with law. Therefore, we do not find any infirmity or illegality in the order so passed by the learned Judge.

7. Finding no merit, this appeal stands dismissed leaving it open to the appellants to take decision with regard to the appointment of the respondent to the post of Village Assistant, purely on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs. Connected C.M.P. is closed.

[R.M.D.,J.] [M.S.Q., J.]
22.08.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd



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To

WEB COPY

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