



W.A.No.1748 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No.1748 of 2022

and

C.M.P.No.12587 of 2022

S.Sathyaseelan

... Appellant

Vs.

1.The District Collector,
Perambalur District,
Perambalur - 621 101.

2.The Special Tahsildar,
Adi Dravidar Welfare Department,
Perambalur - 621 101.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.06.2022 passed by the learned Judge in W.P.No.8468 of 2022.

For Appellant

: Mr.N.Subramaniyan

For respondents

: Mr.Arun

Additional Advocate General

assisted by Mr.C.Selvaraj

Special Government Pleader

JUDGMENT



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(Judgment of the Court was made by R. MAHADEVAN, J.)

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Heard both sides and perused the materials placed before this court.

2.The writ petitioner is the appellant herein. This writ appeal is directed against the order dated 22.06.2022 passed by the learned Judge in W.P.No.8468 of 2022.

3.The appellant was appointed as Cook in Government Adidraavidar Students Welfare Hostel, Melapuliyur, Perambalur District and he joined the service on 20.10.2020. While he was working as such, without issuing any show cause notice or conducting any enquiry, his appointment was cancelled by the proceedings of the first respondent dated 28.03.2022, on the ground that he was aged 36 years 3 months and 3 days as on the date of notification (i.e.) on 02.10.2019, which is beyond the upper age limit prescribed for appointment and hence, he was directed to be relieved from duty. Aggrieved by the same, the appellant filed WP.No.8468 of 2022 seeking to quash the said proceedings of the first respondent and consequently, direct the respondents to allow him to continue in service with all attendant benefits.

4.The learned Judge, after hearing the parties, set aside the order of the



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first respondent on the ground of violation of the principles of natural justice and accordingly, directed the respondents to issue a show cause notice and pass necessary orders within a period of eight weeks. Being dissatisfied with the order so passed by the learned Judge, the writ petitioner has preferred this writ appeal.

5.The learned counsel for the appellant contended that without issuing any show cause notice nor conducting any enquiry, the first respondent cancelled the order of appointment given to the appellant and directed to be relieved him from duty, by the order impugned in the writ petition, which is in blatant violation of the constitutional mandate. However, the learned Judge simply quashed the said order, without a direction to the respondents to reinstate the appellant in service and relegated him to the respondent authority for enquiry. Adding further, the learned counsel submitted that the notification prescribed the age of the applicants as 35 years, whereas the appellant's age is 36 years 3 months and 26 days as on the date of notification, but he is entitled for age relaxation by further period of 5 years i.e., upto 40 years, as he belongs to scheduled caste, in accordance with section 20(8) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, (in short, 'the Act'), which reads as follows:

"20 (8) The maximum age limit prescribed in the special rules shall not apply—

(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Class or Denotified Communities



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or of destitute widows of all castes to a post included in a service for which the special rules prescribe a qualification lower than a degree of any University recognized by the University Grants Commission, if such candidate possesses a general educational qualification which is higher than that referred to in sub-section (1) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes and Denotified Communities or of destitute widows of all castes who holds a degree of any University recognized by the University Grants Commission, if the degree he holds is not lower than the degree prescribed in the special rules for appointment to such post and if he is otherwise qualified for appointment:

Provided that, for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes or in respect of destitute widows of all castes, who do not possess a general educational qualification, which is higher than the minimum general educational qualification: Provided further that for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by two years in respect of candidates belonging to Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities, who do not possess a general educational qualification, which is higher than the minimum general educational qualification."

Therefore, the order of cancelling the appellant's appointment is arbitrary, illegal and violation of the principles of natural justice. In such circumstances, the learned Judge ought to have set aside the order of termination and directed to reinstate the appellant in service, but he merely directed the respondent authorities to revisit the issues once again, after issuing show cause notice to the appellant, by the order impugned in this appeal, which will have to be quashed.



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6. On the other hand, the learned Additional Advocate General appearing for the respondent authorities submitted that the first respondent issued press release on 02.10.2019 calling for applications to the post of Cook at Adidraavidar Welfare Students Hostel and the appellant applied for the same, in which, it was mentioned that his date of birth is 06.06.1983 and he failed in 10th standard. He was called for interview and accordingly, he attended the same and got selected. Subsequently, he was issued with the order of appointment on 20.10.2020. However, after verification, it was found that he was over aged at the time of submitting his application i.e., his age was 36 years 3 months and 26 days, but the maximum age limit is 35 years as per the notification and hence, his appointment was cancelled and he was removed from service on 28.03.2022. The learned counsel further contended that Section 20(8) of the Act would not apply to the case of the appellant as he had not possessed the educational qualification of a pass in SSLC. Continuing further, the learned counsel submitted that Schedule III to Section 20(1) prescribes the minimum general education qualification as a pass in SSLC public examination. On the other hand, the post of Cook prescribed only to the persons, who failed in 10th standard and they should be within the age of 18-35 and they shall have the knowledge of reading and writing in Tamil language. It is also submitted that the appellant was not sponsored by the District Employment Office, as he has not renewed his



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registration with the employment exchange, in the consecutive years. Therefore, he lost his opportunity of extension of age limit as per G.O.Ms.No.21, Labour and Employment Department dated 02.02.2020 and the Commissioner of Adi Dravidar Welfare's proceedings in Na.Ka.No.Th.2/0950/2020 dated 26.05.2020. With these submissions, the learned Additional Advocate General submitted that the order of the first respondent cancelling the appointment of the appellant and relieving him from duty, is perfectly right.

7.By way of reply, the learned counsel for the appellant submitted that Section 20(8) of the Act read with its first proviso provides for an increase in the upper age limit prescribed in the Special Rules for any service in respect of the candidates belonging to SC/ST community by 5 years, if the minimum educational qualification required for the post is not higher than the minimum general educational qualification, i.e., a pass in 10th standard. In this case, the educational qualification prescribed for the post in question is 10th standard fail, which is not higher than the minimum general educational qualification; the appellant belongs to Scheduled Caste Community and hence, the first proviso to Section 20(8) is squarely applicable to his case. It is also submitted that the notification did not specify any specific qualification for eligibility. Instead, it was stated that the individuals who can speak, read, and write in Tamil are eligible for the post. Therefore, according to the learned counsel, the appellant is eligible for



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the age relaxation based on Section 20(8) of the Act. However, the same was not taken into consideration, while passing orders by the first respondent as well as by the learned Judge. Stating so, the learned counsel sought to allow this writ appeal by setting aside the orders impugned in the writ petition as well as in this appeal.

8.However, the learned Additional Advocate General appearing for the respondents ultimately, submitted that during the pendency of this appeal, as directed by the learned Judge in his order dated 22.06.2022 passed in WP.No.8468 of 2022, the first respondent issued summons dated 10.08.2022, calling upon the appellant to appear in person along with the required documents, for enquiry on 22.08.2022. Pursuant to the same, the appellant appeared in person and submitted his representation on the same day. After analysing the same, the first respondent by order dated 31.10.2022, came to the conclusion that the appellant is not eligible for appointment as cook, as he was aged 36 years 3 months and 26 days, which is beyond the upper age limit prescribed in the notification and accordingly, affirmed the order dated 28.03.2022 cancelling the appellant's appointment. Therefore, the relief sought in this writ appeal has become infructuous.

9.In view of the subsequent development that had taken place during the pendency of this appeal, this court is of the opinion that there is no requirement



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to test the correctness of the order passed by the learned Judge, as the same has been complied with by the respondent authorities and an order has been passed afresh, with regard to the claim of the appellant. Hence, this court, while declining to interfere with the impugned order, grants liberty to the appellant to challenge the order of the first respondent dated 31.10.2022, if so advised, by raising all the grounds available to him, in the manner known to law.

10. With the above observation, this writ appeal stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
06.06.2023

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Speaking Order / Non-speaking order
Internet : Yes
Index : Yes /No

To
1.The District Collector,
Perambalur District,
Perambalur - 621 101.

2.The Special Tahsildar,
Adi Dravidar Welfare Department,
Perambalur - 621 101.

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

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