



W.P.Nos.26292 of 2014 & 28839 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos. 26292 of 2014 & 28839 of 2015

and

M.P.Nos.1 to 3 of 2014

W.P.No.26292 of 2014

M.Vijaya

...

Petitioner

Vs

1. The District Collector,
Salem.

2. The Revenue Divisional Officer,
Sankari, Salem District.

3. The Tahsildar,
Edapadi,
Salem District.

4. M.Rani

...

Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to EK/2014/06925 dated 01.09.2014 on the file of the 1st respondent quash the same and further directing the respondents 1 to 3



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appoint the petitioner to the post of the Village Assistant at Samuthram Village, Edapadi Taluk, Salem District.

For Petitioner : Mr.R.Ezhilarasan
For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader
For R4 : Dismissed vide order dated 01.10.2015.

W.P.No.28839 of 2014

M.Vijaya ... Petitioner

Vs

1. The District Collector,
Salem.

2. The Revenue Divisional Officer,
Sankari, Salem District.

3. The Tahsildar,
Edapadi,
Salem District.

4. The Assistant Director,
District Employment Office,
Salem.

5. M.Vanisree ... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to Na.Ka.No.3039/2013/A3 dated 19.08.2014 on the file of the third respondent quash the same and further directing the



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respondents 1 to 3 to appoint the petitioner in the post of the Village Assistant at Samuthram Village, Edapadi Taluk, Salem District.

For Petitioner : Mr.R.Ezhilarasan
For R1 to R4 : Mr.Yogesh Kannadasan
Special Government Pleader
For R5 : Mr.A.Prakash
for Mr.R.Saseetharan

COMMON ORDER

W.P.No.26292 of 2014 has been filed challenging the order dated 01.09.2014 passed in EK/2014/06925 by the first respondent, thereby rejected her application for appointment to the post of Village Assistant at Samuthram Village, Edapadi Taluk, Salem District.

2. W.P.No.28839 of 2015 has been filed challenging the appointment of fifth respondent as Village Assistant in the Samuthram Village, Edapadi Taluk, Salem District.

3. Heard the learned counsel appearing on either side and perused the materials available on record.



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4. The learned counsel for the petitioner would submit that she has registered her VIII Standard qualification in the District Employment Office, Salem on 22.01.1997. Thereafter, she failed X Standard and her age is 36 years. Since she is the senior most candidate who applied for the post of Village Assistant, her application was rejected and appointed the fourth respondent in W.P.No.26292 of 2014 was appointed as Village Assistant. Her application was rejected on the ground that her age was barred, since she was aged about 36 years at the time of application. However, as per G.O.Ms.No.21, dated 02.02.2000 issued by the Labour and Employment (N2) Department, she was entitled for age relaxation upto maximum five years to apply to any post.

5. A perusal of the counter filed by the third respondent revealed that admittedly the petitioner applied to the post of Village Assistant at the age of 36 years. On receipt of the application, an interview was conducted by the third respondent, in which the fifth respondent in W.P.No.28839 of 2015 was found as better performer and more suitable over the other



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persons and she was selected and appointed as Village Assistant. In fact, the petitioner was also interviewed and she was found over aged, i.e., completed 36 years, as against the required upper age limit of 35 years as prescribed under the proviso to Rule 5 of the Special Rules for the Tamil Nadu Village Assistant Service. Rule 4 of the Special Rules for the Tamil Nadu Village Assistant Service specifies the upper age limit of a person for appointment to the post of Village Assistant as 30 years. However, the proviso to the above rule relaxes and specifies that in the case of persons belonging to any of the Backward Classes or Most Backward Classes and Denotified Tribes, or Scheduled Castes or a Scheduled Tribe for appointment to the post of Village Assistant, the age limit is 35 years. Accordingly, the petitioner had already availed the age relaxation of five years in the said proviso. Therefore, her application was rightly rejected due to bar of her age.

6. G.O.Ms.No.21, Employment (N2) Department, dated 02.02.2000 is not acceptable in this case, since the appointment of Village Assistant is fully governed by the exclusive Special Rules for the Tamil



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Nadu Village Assistant Service which prescribes the upper age limit as 35 years including relaxation of five more years in the case of persons like the petitioner. Therefore, the Government Order cannot over ride Rule 5 of the Special Rules for the Tamil Nadu Village Assistant Service unless the existing Rule is amended by a competent statute. Therefore, the application of the petitioner was rightly rejected by the first respondent and this Court finds no infirmity or illegality in the order passed by the first respondent.

7. Insofar as the appointment of fifth respondent is concerned, one of the post of Village Assistants in Edapadi Taluk Women (MBC-Priority category) fell vacant and with a view to fill up the vacant post a list of candidates was called for from the Assistant Director, District Employment Office, Salem, by the third respondent by his communication dated 18.07.2014. Accordingly, five candidates were called for interview on 30.07.2014 by the third respondent. They were interviewed and they possessed the requisite qualifications, such as reading and writing in Tamil, Cycling, antecedents and character to select the best suitable candidate from among all the candidates. In the interview, the fifth respondent was found



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as better performer and more suitable by the other persons and she was selected and appointed by the third respondent as Village Assistant. As stated supra, the petitioner was interviewed and found that she was over aged i.e., completed 36 years, as against the required upper age limit of 35 years as prescribed under the proviso to Rule 5 of the Special Rules for the Tamil Nadu Village Assistant Service. Therefore, the fifth respondent was rightly appointed as Village Assistant by the third respondent and this Court finds no infirmity or illegality in the order passed by the third respondent.

8. In the result, both the writ petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No



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G.K.ILANTHIRAIYAN,J.

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To

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Salem.
2. The Revenue Divisional Officer,
Sankari, Salem District.
3. The Tahsildar,
Edapadi, Salem District.

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