



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.Nos.24324 & 24325 of 2017
and
W.M.P.Nos.25733 & 25734 of 2017

M. Sundaravel
B. Umashankar

.. Petitioner in W.P.No.24324 of 2017
.. Petitioner in W.P.No.24325 of 2017

Vs.

The Director of Social Defence,
Purasaiwalkam High Road,
Vepery, Chennai – 600 010.

.. Respondent in both W.Ps

Prayer in W.P.No.24324 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued in No.6815/A3/2017-1 dated 09.05.2017 passed by the respondent and to quash the same and consequently direct the respondent to appoint the petitioner as last grade servant, as if done in the case of others.

Prayer in W.P.No.24325 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued in



No.6815/A3/2017-2 dated 09.05.2017 passed by the respondent and to quash the same and consequently direct the respondent to appoint the petitioner as last grade servant, as if done in the case of others.

For Petitioner .. Mr.S.Ilamvaludhi, in both WPs
For Respondent .. Mr.V.Nanmaran, AGP, in both WPs

COMMON ORDER

In both writ petitions, the relief sought is the same and the grounds for seeking such relief are also same. The grounds for denial of such relief are also same. In view of this particular common factor, it is only prudent that a common order is passed.

2.Both the writ petitions have been filed in the nature of Certiorarified Mandamus seeking records relating to the impugned order dated 09.05.2017 in both the cases and passed by the respondent, the Director of Social Defence, Chennai and to quash the same and to direct the respondent to appoint the petitioners as last grade servant as done in the case of others.

3.In the affidavit filed in support of W.P.No.24324 of 2017, the



petitioner had stated that he had been admitted in the Children Observation Home, while he was in Juvenile. He completed schooling in the observation home. Most of them were given training in skilled work like welding, electrical, fitter, hold all making and other qualified courses. It is also stated that to give protection to Juvenile offenders, the Government had passed G.O.Ms.No.2535 Social Welfare Department dated 11.10.1983 to give employment only to the inmates and ex-inmates for the post of 'C' and 'D' groups. It had also been stated that the said Government order had been recognized and pressed into service by an earlier order of this Court in W.P.No.11892 of 2010, wherein, by an order dated 23.07.2012, the petitioner therein, had been appointed to the post of watchman.

4.Subsequently, the Government had passed G.O.Ms.No.57 Social Welfare and Nutritious Meal Programme (SW8) (2) Department dated 20.07.2016, stating that those who had served in the Vilgilance Home, Observation Home, Children Home and Special Home may be considered for the posts of group C and D along with the others, who similarly apply for such posts.

5.It is stated by the learned counsel for the petitioner that this



Government order was directly in contradiction to the earlier Government order in G.O.Ms.No.2535 Social Welfare Department dated 11.10.1983, wherein, it had been directed that preference should be given only to those children, who had been in Children Observation Home and who could be later on considered for employment in group C and D posts. The petitioner claimed that taking advantage of G.O.Ms.No.57 dated 20.07.2016, whenever, the post felt vacant, to fill up the posts, there were notifications issued, but the children who were earlier in Observation Homes, by passage of time had crossed the age limit for employment and were therefore rejected and those who applied from outside alone were considered for appointment.

6.Claiming that the petitioner should also be considered for employment in anyone of the group C and D posts, the petitioner, had questioned the impugned order dated 09.05.2017. The specific petitioner herein had been rejected on the ground that he did not belong to SC community and that his age has crossed thirty years.

7.With respect to the petitioner in W.P.No.24325 of 2017 who also sought employment on the very same ground, in the impugned order again



his application seeking appointment had been rejected on the ground that, he did not belong to SC community and that he was more than 30 + 5 years of age.

8. In the counter affidavit, it had been stated that those children who studied in Observation Homes, were also inmates and ex-inmates of Social Welfare Department. It had been stated that they were always considered for recruitment to the vacancies of 26 Children Home run by the Commissionerate of Social Welfare Department. It had been therefore contended that the outsiders or persons from outsiders were not considered for filling up the posts for group C and D. It had been stated that interviews were conducted and certificates were verified on 16.09.2016 and 24.10.2016 for such children, and also outsiders and also for those who were sponsored by Employment Exchanges. It had been stated that both the petitioners had crossed the age limit of thirty years and that they did not also belong to SC community and therefore, both the petitioners cannot be accommodated in any post. It had been stated that during the certificate verification, the petitioners had not produced the SC community certificate certifying that they belonged to Adidravida community. Therefore, the petitioners were



considered only in the general category.

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9. The learned counsel for the petitioners assailed these reasons. The learned counsel stated that the petitioners had produced certificates certifying them to belong to SC Adidravida community and therefore stated that particular ground on which the petitioners had been rejected has to be interfered with and set aside by this Court. The learned counsel also pointed out that on several occasions age relaxations had been granted by the respondent. In this connection, the learned counsel for the petitioners placed reliance on the very statistics produced by the respondent, wherein, candidates, who were aged about 37, 38, 40, 42, 43 years and even a candidate who was aged about 53 years and another candidate who was aged about 46 years had been proposed to be appointed as cook/watchman.

10. On the side of the respondent, it had been contended that though the names of these candidates had been proposed by the respondent to the Government for consideration, the Government had not considered them for grant of appointment.

11. The issue is therefore quite nebulous. The respondent is not able to produce full statistics, as to the candidates, who had been granted relaxation



but had not completed the period of sentencing as determined by the Juvenile Justice Board, a Probation Officers are also appointed to monitor the future of the said children. It is a continuous responsibility of the respondent to rehabilitate the children in conflict with law back into society. That is a responsibility, which cannot be just washed away by the respondent. It is also to be noted that opportunity of employment would not come automatically, but only when the respondent open up such opportunities. At that particular point of time there is always a possibility that these children would have crossed the age limit. That is why, a provision to relax the age had been provided and that power is vested with the Government.

15.Insofar as the impugned orders, in these writ petitions are concerned, age relaxation has not been granted, primarily because, it had been observed that the community of the children had not been established by production of necessary certificates.

16.However, the learned counsel for the petitioners pointed out that community certificates had been produced and would show that the children



belong to SC Adidravida community. Since they belong to SC Adidravida community and then since those certificates had not been taken into consideration, then the entire impugned order will have to be set aside. The impugned orders will have to be set aside not only because the community certificates had not been considered, but since the community certificate had not been considered, age relaxation was also not considered. On both grounds, the petitioners have suffered from improper consideration of their applications.

17.It would only appropriate that the respondent applies its mind to the plight of the petitioners herein and pass appropriate orders. The respondent need not appoint them in accordance with the educational qualifications, but attempt to reintegrate them into society by providing necessary opportunity to them in the posts of group C and D where some income could be generated for the work which the petitioners would do and that would only be to their benefit and if they finally reintegrate in the society, it would be a success story for the Government. Any Government functions only as a welfare State. It is very easy to uplift those who are already qualified, but reaching out to those who require help, is what would



bring about a difference in quality Governance. Therefore, the impugned orders are set aside.

18.The respondent is directed to re-examine the case of the petitioners herein and view them as children, who were in conflict with law, when they were juveniles and who had been given vocational training during their period of stay in Observation Homes and thereafter, place them in any post. This is one of the main objects of the the Juvenile Justice (Care and Protection of Children) Act, 2015.

19.It is to be noted that rehabilitation of these children should be the primary focus of the respondent. It is also to be noted that reintegration into society and recognition as responsible members of the society is also one of the objects of the Act and in that view, I hold that the impugned orders will necessarily have to set aside and the matters will have to re-examined by the respondent once again. They may also take note of the fact that the petitioners belong to the SC Adidravida community and therefore extend a helping hand to them to advance in society.

20.With the above observations, the impugned orders are set aside.
The writ petitions are disposed of with directions to the respondent to re-



consider the representations of the petitioners herein and if possible appoint the petitioners to any group C or D posts. Let orders be passed at least in these two cases by the respondent. Necessary steps to be taken within a period of sixteen weeks from the date of receipt of a copy of this order. No costs. Consequently, connected writ miscellaneous petitions are closed.

19.09.2023

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Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
Speaking order:Yes/No

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To

The Director of Social Defence,
Purasaiwalkam High Road,
Vepery, Chennai – 600 010.

C.V.KARTHIKEYAN,J.

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