



W.A.No.4347 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.10.2023

PRONOUNCED ON : 20.12.2023

CORAM :

THE HONOURABLE Mr.JUSTICE **R.SURESH KUMAR**
and
THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.A.No.4347 of 2019
&
CMP.No.28021 of 2019

Mohan Guru
S/o.Late Kumaraguru

... Appellant

-Vs-

1. J.Jamuna
Destitute Widow,
W/O. Late. Murugan
2. The District Collector,
Villupuram District,
Villupuram.
3. The Revenue Divisional Officer,
Villupuram District,
Villupuram.
4. The Tahsildar,
Vikravandi Taluk,
Villupuram District.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent praying to set aside the order made in W.P.No.16950 of 2019 dated 10.12.2019.



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For Appellants : Mr.S.Vijayakumar,
Senior Counsel
for Mr.G.Bharadwaj

For Respondents : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan for R1
Mr.M.Murali
Government Advocate for R2 to R4

J U D G M E N T

(Judgment of the Court was delivered by **C.KUMARAPPAN, J**)

This Writ Appeal has been filed against the order of allowing the Writ Petition in WP.No.16950 of 2019 dated 10.12.2019.

2. In the Writ petition, the respondent/petitioner has sought for the relief of Writ of Declaration to declare the appointment of the appellant herein as Village Assistant of Thumbur Village, pursuant to the notification dated 21.01.2019, as null and void.

3. According to the averments in the writ petition, the first respondent/petitioner is a native of Thumbur Village, Villupuram District and belongs to BC community. In pursuance of the notification dated 21.01.2019, she has applied for the post of Village Assistant. It is her specific contention that the said post has to be filled up with BC candidate



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that too with a person those who are residing in priority villages, or in Thumbur Village.

4. The first respondent/petitioner further stated that, though she is a native of Thumbur Village and belongs to BC community and also a destitute Widow, inspite of calling her for interview on 09.02.2019, she was not selected. However, in violation to the conditions stipulated in the notification, the appellant herein was selected, who neither reside in Thumbur village nor in any of the priority village, but hails from all together different village qua from Sirugramam village, Panruti Taluk. It is the further submission of the first respondent/petitioner that such appointment is contrary to the notification.

5. Repelling the above said contention, the appellant has stated that by virtue of the Government Order in G.O.Ms.No.375 dated 19.10.2015, it is not mandatory that the selectee should reside within the priority village, and he would submit that, it is sufficient to reside in any of the village within the Vikravandi Taluk. It is the further submission of the appellant that he is a differently abled person and having hard of hearing (having 60% deafness). The appellant further contended that the respondent has rightly appointed him as the Village Assistant and there is no illegality. Therefore, prayed to



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allow the Writ Appeal.

6. We have anxiously considered the arguments of either side.

7. The crux and core of the submission of the appellant is on three fold. (i) By virtue of the G.O.Ms.No.375 dated 19.10.2015, though he did not reside in the priority village, still his appointment is valid in law, (ii) the first respondent is over qualified and therefore, this appellant's appointment should not be disturbed, and (iii) The 1st respondent has given misleading bio data.

8. Let us consider the above objections one after another. In respect of the first objection raised by the appellant, invoking the G.O.Ms.No.375 dated 19.10.2015, we are not persuaded with the submission of the learned Senior Counsel on the simple ground that in the notification, calling for application for appointment of Village Assistant of Thumbur village, priority has been given to the applicants those who reside in the six priority villages. Admittedly, the appellant does not belongs to those village. The learned Single Judge has rightly found that notwithstanding the G.O.Ms.No.375 dated 19.10.2015, when a notification specifically named six villages as a priority village, that cannot be simply given a go-by and that the notification must be construed strictly and that the Government Order cannot be read into



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the notification. It is common knowledge that the Village Assistant is a person who is first in contact, as a Government representative. Therefore, the stipulation mentioned in the notification has got rationale.

10. The learned Senior counsel has invited the attention of this Court in respect of Rule 7(c) of the Tamil Nadu Village Servants Service Rules, 1980, wherein it stipulates that the person appointed to the post shall belong to the village to which he is appointed or the adjoining village, if no suitable candidate available from the village. However, the learned senior counsel would contend that by subsequent Government Order in G.O.Ms.No.375 dated 19.10.2015, the above position has been diluted and now that it is sufficient that the applicant should only be resident of the respective Taluk. It is not necessary that the applicant should belong to the village, which he applied, or the adjoining village.

11. Before we proceed further, it is an admitted fact that this appellant is neither a resident of the village or adjoining priority villages to which he was appointed. As a matter of fact, in the notification calling upon the prospective candidates to apply for the post of Village assistant, it stipulates, except the candidates who belongs to the village to which he is applying for the post of Village Assistant or the resident of adjoining village, other cannot



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apply. Here the appellant only after came to know about such specific condition, has applied for the post and participated in the recruitment process. More curiously, he did not challenge the said notification on the ground that it contravenes to the G.O.Ms.No.375 dated 19.10.2015. Therefore, when the appellant submitted himself to all the conditions stipulated in the notification dated 21.01.2019, now he cannot turn around and expect that the appointing authority should change the Rule after the commencement of the recruitment process. The Writ Court has elaborately considered all these aspects and allowed the writ petition. It is common knowledge that the Village Assistant is a person, who is first in contact of the respective villages, as a Government representative. Therefore, notwithstanding G.O.Ms.No.375 dated 19.10.2015, this Court could not find any irrational or illegality in stipulating such conditions for the prospective appointees in respect of their place of residence.

12. The next objection put forth by the appellant is that the qualification for the Village Assistant is only V standard pass, whereas the first respondent herein is a graduate. Therefore, in view of her over qualification, she is not entitled for an appointment. But the Writ Court rightly found that the over qualification possessed by the prospective



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candidates cannot be considered as disadvantage to the prospective candidate. In this regard, the learned Single Judge has relied upon the judgment of the Hon'ble Supreme Court in ***Y.Srinivasa Rao Vs. J.Veeraiah and others*** reported in (1992) 3 SCC 63 and ***Mohd.Riazul Usman Gani and others Vs. District & Sessions Judge, Nagpur and others*** reported in (2000) 2 SCC 606. This Court is in full agreement with the view expressed by the learned Single Judge.

13. Lastly, a feeble attempt was made on behalf of the appellant that the first respondent had misrepresented about her income, place of residence and her nature of job. To substantiate such contention, the appellant has submitted alleged nativity certificate of the first respondent. Before we embark into the veracity of the said document, while we perusing the counter statement of this appellant filed before the Writ Court, he did not dispute the place of residence of the first respondent. Even in the grounds of appeal, such objection has not been raised. Therefore, the objection put forth by the appellant in respect of the place of residence of the 1st respondent/petitioner is liable to be rejected. In respect of the nature of job and reference of coolie work in the bio data, since the first respondent is allegedly working in a private Finance, the reference of coolie work cannot be faulted with.



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14. Finally, it is the submission of the learned senior counsel appearing for the appellant that, the appellant herein has been working since 2014, and that he is a differently abled person and also comes within the priority category, hence prayed this Court to show sympathy upon the appellant for continuation of the service. But, we are not persuaded with the submission made by the learned Senior counsel, as his appointment is contrary to the notification and illegal, as stated supra. Further such illegality cannot be allowed to perpetuate on the ground of sympathy. Thus, this Court could not find any ground to interfere with the well reasoned order of the learned Single Judge. Further, this Writ Appeal is devoid of merits and liable to be dismissed. Resultantly, this Writ Appeal is dismissed. There shall no order as to costs. Consequently, connected CMP in CMP.No.28021 of 2019 is also closed.

(R.S.K.,J..)

(C.K.,J.)

20.12.2023

Index : Yes/No

Speaking Order : Yes/No

NCC : Yes/No.

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To

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