



W.P.(MD)Nos.3505 to 3515 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.3505 to 3515 of 2023

and

W.M.P.(MD)Nos.3242 to 3257 and 3259 to 3264 of 2023

W.P.(MD)No.3505 of 2023

G.Muthu Maheswaran

... Petitioner

Vs.

1.The Principal Secretary to Government,
Welfare of Differently Abled Persons Department,
St. George Fort,
Chennai - 600 009.

2.The Commissioner
Differently Abled Welfare Office,
Lady Wellington College Campus,
Kamarajar Salai,
Chennai - 600 005.



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3.The Commissioner
Commissionerate of Revenue Administration
and Disaster Management,
Ezhilagam,
Chepauk,
Chennai - 600 005.

4.The District Collector
Madurai District,
Madurai - 625 020.

5.The Tahsildar
Madurai North Taluk,
Collectorate Campus,
Madurai - 625 020.

... Respondents

PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Selection List, dated 28.01.2023 notified by the fifth respondent with names of candidates for appointment as Village Assistant and quash the same as illegal / unconstitutional to the extent of non selection of the candidates under Persons with Disability category and consequently to direct the respondents to select and appoint the petitioner by following 4% reservation to the persons with disabilities as per Section 34 of the Rights of Persons with Disabilities Act, 2016.



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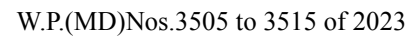
In all writ petitions

For Petitioners : Mr.P.Kalaiyarasi Bharathi
For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

COMMON ORDER

Since the issue arises in all the writ petitions are one and the same, these writ petitions are taken up together and disposed of by this common order.

2. All the petitioners are differently abled persons with 50% disability and they are within the benchmark disability. Whiles, the respondents have decided to call for appointment to the post of Village Assistant vide notification, dated 28.09.2022 to fill up the post of 2748 Village Assistants by the Revenue and Disaster Department. The petitioners are residents of Madurai District and in order to fill up the vacant places numbering about 209, the petitioner applied for the same and had participated in the written examination conducted on 04.12.2022. The



3. The learned counsel appearing for the petitioners submitted that respondent had issued G.O.Ms.No.21, dated 30.05.2017 provided reservation for differently abled persons in the matters of reservations of post in all Government Establishments under Section 34 of the Persons with Disabilities Act, 2018. When the above said Government Order is in subsistence, the second respondent has suitably directed all the District Collectors of our State to strictly follow the 4% reservation quota in the selection of Village Assistant Post by providing necessary representations to the petitioners. However, without providing 4%



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reservations to the petitioners, they have mechanically selected based on the communal roster and priority and non-priority category is not sustainable one and on that sole ground, the present writ petitions are filed. Accordingly, he prayed for allowing these writ petitions.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioners are not questioning the selection process of the respondents, they are questioning the selection process on the ground 4% reservation was not provided to them. If it is so, the petitioners ought to have challenged the notification at the initial stage. However, without challenging the notification at the initial stage, having participated in the selection process and they are not successful in the written examination as well as the oral examination. Challenging the selection process subsequently is not sustainable one. Accordingly, he prayed for dismissal of these writ petitions.

5. Further, the learned Special Government Pleader submitted that since the petitioners are differently abled persons, the initial notification



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itself they have provided age relaxation in respect of differently abled persons, already the concession was given to the petitioners, however, 4% reservation is not mandatory, even if it is mandatory they ought to have challenged the notification at the initial stage, not at this stage.

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

7. The facts in the present case are not in dispute. Admittedly, the petitioners have participated in the selection process for the post of Village Assistant. Though no priority or reservation was given to the differently abled persons, however, with a disability, the petitioners have participated in the selection process in different categories of communal rotation. Having participated in the selection process, the petitioners filed these writ petitions challenging the selection process on the ground that 4% reservation was not provided to them. As rightly submitted by the learned Special Government Pleader if the petitioners have claimed 4% reservation not provided to the selection process to the post of Village Assistant, they ought to have



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challenged the notification at the initial stage for providing 4% reservation however, instead of challenging the notification at the initial stage, having participated in the selection process, they have no right to challenge the selection process subsequently. Hence, the prayer sought for in these writ petitions cannot be granted.

8. Accordingly, these writ petitions are dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

23.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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M.DHANDAPANI,J.

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