



W.P(MD)No.9236 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 14.06.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.9236 of 2023**  
**and**  
**W.M.P(MD)No.8441 of 2023**

S.Pragatheshwaran

... Petitioner

Vs

1.The Union of India,  
Represented through the Secretary,  
Ministry of Communications,  
Department of Posts,  
New Delhi.

2.The Assistant Director General,  
Department of Posts,  
Dak Bhawan,  
New Delhi – 110 001.

3.The Senior Superintendent of Post Offices,  
Virudhunagar Division,  
Virudhunagar – 626 001.

... Respondents

Prayer: 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 impugned order passed by the third respondent vide Document



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verification letter dated 17.03.2023 and quash the same and consequently direct the respondents to issue order of appointment to the petitioner as DAK SAVAKS in the category PWD-B to the recruitment vide notification No. 17-21/2023-GDS dated 27.01.2023.

For Petitioner : Mr.M.Prabhakaran

For Respondents : Mr.K.Govindarajan  
Deputy Solicitor General of India

### **ORDER**

Heard the learned counsel appearing for the writ petitioner and the learned Deputy Solicitor General of India appearing for the respondents.

2.The petitioner is a differently abled person. He is having hearing disability to the extent of 65%. The second respondent issued notification dated 27.01.2023 inviting online applications from eligible applicants for Engagement of Gramin Das Sevaks (GDS). The petitioner applied in response thereto. However, by the impugned communication, his candidature was rejected. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned rejection order and grant relief as prayed for.



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4.The learned Deputy Solicitor General of India, on instructions, submitted that the petitioner does not possess the educational qualification set out in the notification dated 27.01.2023. In the alternative, he submitted that even if the petitioner's candidature is considered on merits, he would still not be selected since another candidate had scored higher higher than the petitioner. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The question that calls for consideration is whether a person who has been exempted from writing a subject can be considered to have passed the same. In my view, the answer has to be necessarily in the negative. The rejection order states that the petitioner not having passed in English subject in SSLC cannot be considered as an eligible candidate. The learned counsel appearing for the petitioner draws my attention to G.O(Ms)No. 28, School Education Department, dated 10.02.2020 which exempts those who are physically disabled from writing one of the language subjects. The petitioner availed the benefit conferred under the said Government Order and took exception from writing the English subject in his 10<sup>th</sup> standard. He, thereafter, cleared 12<sup>th</sup> standard and he is also holding Engineering Degree as of now. The stand of the learned counsel appearing for the petitioner is that when the State Government had issued a beneficial Government Order in favour of



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differently abled candidates, it is not open to the respondents to discriminate the petitioner for having availed the benefit under the said Government Order.

6.If the educational qualification prescribed in the notification has been a mere pass in 10<sup>th</sup> standard, I would certainly sustain the contention of the learned counsel appearing for the petitioner. But the notification reads that the candidate must possess his pass certificate of 10<sup>th</sup> standard having been passed in Maths and English (Having been studied as compulsory or elective subject). There is a requirement of not only pass in 10<sup>th</sup> standard but also pass in Maths and English. Thus, there is a twin requirement. The petitioner fulfils the first requirement alone. No doubt, he should be treated as a candidate who passed 10<sup>th</sup> standard. But he has not passed in English; he has obtained exemption from writing the said examination. The petitioner has not questioned the notification dated 27.01.2023. Having participated in the selection process, it is not open to the petitioner to now question the same. The employer is entitled to stipulate any eligibility condition. The Hon'ble Apex Court has consistently held that the writ Court will not be justified in interfering with the eligibility conditions prescribed by the employer. In this view of the matter, the order impugned in the writ petition cannot be faulted.



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7.Coming to the merits of the matter, the learned Deputy Solicitor General of India would point out that the petitioner had erroneously filled up the application form as if he had obtained 100 marks in English paper. Even if the petitioner is compared with the selected candidate, namely, S.Manju Parkavi and the marks secured by S.Manju Parkavi as well the petitioner in language subject is considered as zero, still S.Manju Parkavi would have to be selected because she had scored 388 marks whereas the petitioner's mark is only 377. Even on merits, the selection of S.Manju Parkavi cannot be upset. In this view of the matter, no interference is warranted.

8.This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**14.06.2023**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
MGA

To

1.The Secretary, Union of India,  
Ministry of Communications,  
Department of Posts,  
New Delhi.



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**G.R.SWAMINATHAN, J.**

MGA

- 2.The Assistant Director General,  
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- 3.The Senior Superintendent of Post Offices,  
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