



W.P.(MD)No.6056 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6056 of 2018

and

W.M.P.(MD).Nos.5926/2018, 5001/2019 and 20932 of 2018

K.Kannan

... Petitioner

Vs.

- 1.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.
- 2.The Chief Engineer (WRD in PWD),
State Ground and Surface Water Sources Data Center,
Tharamani,
Chennai 600 113.
- 3.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C.Nagar, park Town,
Chennai-600 003.
- 4.The secretary to Government,
Public work Department,
Secretariat,
Chennai-600 009.



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5.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat,
Chennai 600 009.

- 6.Sathya.V
- 7.Angelene Lily Dhivya.P
- 8.Suganthi.S
- 9.Kalpana.L
- 10.Anitha Mary
- 11.Santha Sophia.M
- 12.Ranjith Kumar
- 13.Suresh Kumar.C
- 14.Suvedha.M
- 15.Arunachalam.N
- 16.Anantharaja.S
- 17.Arya.S
- 18.Karthik.K
- 19.Ramajeyam.K
- 20.Sivaramakrishnan.V
- 21.Shalini.N
- 22.Manikandan.M

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 2 and 3 in any way promoting the respondents 6 to 22 to the post of Assistant Director (Geology) and consequently direct the respondents 2 and 3 to promote the petitioner to the post of Assistant Director (Geology).



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For Petitioner : Mr.K.Rajeshwaran
For R1, R2, R4 and R5 : Mr.C.Satheesh
Government Advocate
For R3 : Mr.J.Anand Kumar
For R9, R10, R12 to R16 : No appearance

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents 2 and 3 in any way promoting the respondents 6 to 22 to the post of Assistant Director (Geology) and consequently direct the respondents 2 and 3 to promote the petitioner to the post of Assistant Director (Geology).

2. The case of the petitioner is that he is working as an Assistant Geologist. The candidates, who completed M.Sc., Applied Geology have been selected along with the petitioner and given seniority above the petitioner. However, they are not at all eligible as on 02.04.2012. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is working as an Assistant Geologist and he is the senior most person. However, the private respondents are placed above the petitioner in the seniority list. Hence, he prayed for appropriate orders.

4. The respondents 2 and 4 have filed a counter, wherein it has been stated that the appointments of the respondents 6 to 22 were not initially withheld and they are selected provisionally and conditionally for temporary appointment subject to acceptance of community claim/qualification and should not be regularised before the confirmation of their selection by the Commission vide letters dated 31.01.2013 and 26.04.2013. A clarification requested regarding the qualification of the sixth respondent for her regularisation from the second respondent vide letter dated 30.06.2014. In turn, the third respondent communicated that her qualification is equivalent to M.Sc., Geology. The appointments of the respondents 6 to 22 would be done by the second respondent, based on the third respondent letters dated 31.01.2013 and 26.04.2013. The selection and seniority fixation of the posts is the responsibility of the third respondent.



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There is no role in the seniority fixation of the above said posts for the second respondent and the responsibility of the second respondent is appointing authority only and the regularisation done only after the intimation of the third respondent. Hence, they prayed for dismissal of this writ petition.

5. The sixth respondent has also filed a counter stating that she has completed M.Sc., Applied Geology in the year 2006 and she has participated in the selection process to the post of Assistant Geologist in Ground Water Wing in Public Works Department and in Mining Department and successfully secured 95 marks. Thereafter, she was selected for the post of Assistant Geologist by the first respondent on 10.04.2012 and she joined duty on 18.04.2013 at Pudukottai Sub Division, Perambalur Section, Public Works Department, Ground Water Division as Assistant Geologist. Subsequently, she was transferred to Salem and working there till now. In the circumstances, seniority list for Assistant Geologist was published as on 01.01.2017. In the said list, she was placed in Sr.No.26. The petitioner was placed in Sr.No.46, based on the roaster system. So far, no one challenged



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her qualification and selection and the petitioner has no right to seek promotion by bypassing the seniority list. Hence, the writ petition is not maintainable.

6. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondents 1, 2, 4 and 5 and the learned counsel appearing for the third respondent.

7. The facts in the present case are not in dispute. Admittedly, the petitioner has possessed M.Sc., degree in Geology. The third respondent has issued a Notification on 02.04.2012, for direct appointment to the post of Assistant Geologist in the Public Works Department for the vacancies arisen in the years viz., 2001 – 2002, 2008 - 2009 and 2010 – 2011. In the said Notification, it has been specifically mentioned that the qualification for the Assistant Geologist is 'A degree of M.Sc., in Geology'. In the very same Notification, it has also been mentioned that PG degree qualification prescribed should have been obtained after passing S.S.L.C., H.S.C., and U.G. degree. Since the petitioner has studied in the above mentioned



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manner, he has applied for the said post and passed the examination, which was held on 02.06.2012. Subsequently, he was joined as Assistant Geologist in Karaikudi Ground Water Division, Geological Sub Division of Karaikudi on 22.04.2013. Thereafter, the petitioner came to know that the respondents 6 to 22 were completed M.Sc., Applied Geology (5 years integrated course) and appointed as Assistant Geologist. The result of the respondents 6 to 22 was initially withheld and they appointed belatedly, since the equivalence of their educational qualification is in question. As on 02.04.2012, the respondents 6 to 22 are not at all eligible for the post of Assistant Geologist and their educational qualification was approved only on 24.8.2016. But the petitioner's service was regularised at the time of appointment. Hence, the petitioner has sent various representations to the second respondent to place him in right place in the seniority list. However, the same was not considered. Therefore, the petitioner has filed the present writ petition. However, the learned counsel appearing for the petitioner would submit that this Court may issue a direction to the respondents 2 and 3 to consider the petitioner's representation dated 23.01.2018 and pass appropriate orders within a reasonable time as fixed by this Court.



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8. Though the respondents 2 and 4 have filed a detailed counter, in which they specifically stated that they recognised the M.Sc., Applied Geology on par with M.Sc., Geology and subsequently regularised the services of the private respondents, the petitioner has not questioned the qualification prescribed by the respondents and he is questioning only the seniority fixed by the respondents in between the petitioner as well as the private respondents. However, the same was not answered in the counter affidavit filed by the respondents 2 and 4.

9. In view of the above, this Court, without expressing any opinion on the merits of the matter, directs the respondents 2 and 3 to consider the petitioner's representation dated 23.01.2018 and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.



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10. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

13.02.2023

akv

To

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M.DHANDAPANI,J.

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