



W.P.(MD)No.21085 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21085 of 2016

and

W.M.P(MD)No.15075 of 2016

Chandrakumar

... Petitioner

Vs.

1.The Director of Town Panchayat,
O/o.Director of Town Panchayat,
Kuralagam, Chennai.

2. The District Collector,
Dindigul District.

3. The Assistant Director of Town Panchayat,
Dindigul.

4. The District Employment Officer,
District Employment Office,
Dindigul.

5. The Executive Officer,
Special Grade Town Panchayat,
Chinnalapatti Town Panchayat,
Athur Taluk, Dindigul District.

6. J.Saravanaperumal

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Declaration*, to declare the appointment of respondent No.6 for the post of Grade II Electrical Worker at Chinnalapatti Selection Grade Town Panchayat is Null and void and consequently direct the Respondent No.5 to appoint eligible person for the post of Grade II Electrical Worker at Chinnalapatti Selection Grade Town Panchayat by the Way of Fresh Selection.

For Petitioner	: No appearance
For R-1 to R-4	: Mr.P.Thambidurai Government Advocate
For R-5	: Mr.T.S.Mohammed Mohideen
For R-6	: Mr.R.R.Kannan

ORDER

This writ petition is filed for declaration, to declare that the appointment of the 6th respondent to the post of Grade II Electrician is null and void and consequently direct the 5th respondent to appoint the eligible candidates by way of fresh selection.

2. The contention of the petitioner is that the petitioner is an eligible candidate and has registered his name in Employment Exchange. The respondents



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ought to have called for the list of eligible candidates from the Employment Exchange, thereafter, based on the seniority in the Employment Exchange, appointment orders have been issued. The petitioner is in Serial No.5 from the list of candidates given by the Employment Exchange. Therefore, the claim of the petitioner is to appoint the eligible candidates from the list of the candidates sponsored by the Employment Exchange.

3. The 6th respondent has filed counter affidavit stating that the qualification prescribed for Grade II Electrician is pass in 10th standard and then Diploma in Electrical Engineering or ITI certificate and practical experience for not less than one year and the maximum age is prescribed as 28 years. Earlier, the said post was not coming under the purview of Tamil Nadu Public Service Commission and hence the said posts were filled up through direct recruitment by accepting the sponsorship of Employment Exchange. But the said practice was held as illegal. The Hon'ble Division Bench of this Court in writ appeal in W.A.No.1027 of 2013 dated 09.06.2014 has directed that the post should be filled by issuing advertisement at least in two newspapers, having wide circulation. Therefore, the 5th respondent after getting list from the Employment Exchange as



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well calling for application from the eligible candidates through advertisement in two leading newspapers, thereafter consider the candidates' merits and ability after following the reservation policy.

4. The petitioner's qualification is he has completed Diploma in Electrical Electronics Engineering and aged 26 years, belonging Backward Class Community. The qualification of the 6th respondent is B.E. (E.E.E.), and 26 years of age and coming under Backward Class community. The Employment Exchange has forwarded five persons from its list. The 6th respondent has applied after seeing the paper publication. One more person by name Sakthivel has also submitted an application on 16.08.2018 afternoon, but the last of date of submission of application is 15.08.2018. As per new 200 points roster, the post ought to be filled from general non priority category. The interview was held on 24.08.2016. The 6th respondent was the meritorious candidate, thereafter, he was appointed in the said post and he is working and joined service on 24.08.2016 and he has continued his service until now. Therefore, the respondents prayed to dismiss the writ petition.



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5. Heard Mr.P.Thambidurai, learned Government Advocate appearing for R-1 to R-4 and Mr.T.S.Mohammed Mohideen, learned counsel appearing for R-5 and Mr.R.R.Kannan, learned counsel appearing for R-6.

6. The only contention that was raised by the petitioner is that the respondents ought to have appointed from the list of candidates received from the Employment Exchange by following the Employment Exchange seniority. Even if the petitioner contention is acceptable, the petitioner is not a senior most and one Thiagarajan is the senior most in the said list. The petitioner is in Serial No.5.

7. Moreover, the claim of the petitioner is totally against the dictum laid down by the Hon'ble Supreme Court in Excise Superintendent Malkapatanam Vs K.B.N. Vishveswar Rao and others reported in 1996 (6) SCC 216 and in Union of India and others vs N. Hargopal and others, reported in 1987 [3] SCC 308. Wherein the Hon'ble Supreme Court has directed that the recruiting agency ought to issue paper publication and also affix notice in the prominent place and call for applications from the eligible candidates apart from the list from Employment Exchange. Thereafter, process the applications which



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was received from the aforesaid three modes and after considering the merit of the candidates, the appointment order would be issued. In a public employment, equal opportunity should be granted to all eligible candidates. The respondents have followed the same and has selected meritorious candidate, who is the 6th respondent and there is no illegality in the recruitment of the 6th respondent. Therefore, the writ petition is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
ksa

16.03.2023



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.21085 of 2016**

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