



W.P.No20293 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No20293 of 2015

P.Siva

...Petitioner

versus

1. Tamil Nadu Government Transport Corporation,
(villupuram) Limited,
Rep., by its Managing Director,
General Manager,
Villupuram Region,
Villupuram.

2. District Employment Officer,
Villupuram District,
Villupuram.

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to provide the employment to the petitioner as Driver in the first respondent corporation based on the appointment order dated



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25.10.2013 issued by the 1st respondent forthwith.

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For Petitioner : M/s.K.Balu

For Respondents : Mr.M.Aswin for R1

: Mr. R.U.Dinesh Raj Kumar for R2
Additional Government Pleader

ORDER

This Writ Petition is filed seeking Mandamus directing the first respondent to provide the employment to the petitioner as Driver in the first respondent corporation based on appointment order dated 25.10.2013.

2. The petitioner is having Heavy Vehicle Driving License for transporting vehicles and he has registered the same in the second respondent employment exchange in the year 1997 with registration No.1998M17639. The second respondent has sponsored the petitioner's name to the post of Driver in the first respondent corporation. The first respondent has issued the call letter and the petitioner has attended



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interview on 31.08.2013 and he produced all the required certificates. On the very same day, the physical test was also taken and he was told that he will get appointment letter, however the petitioner has not received any appointment until December 2014.

3. On 08.12.2014 the first respondent has issued another notification for appointment of Driver and again the petitioner applied for the said post. Petitioner has received call letter on 11.12.2014 and on 24.12.2014 he attended the interview but no appointment order was given to him.

4. On verification with the first respondent, the petitioner came to know that he was selected in the year 2013 to the post of Driver in the first respondent corporation. The petitioner has issued an Advocate notice to the respondents on 25.01.2015. The first respondent replied, stating that the petitioner was selected for the post of Driver in August 2013 selections and an appointment order was also issued on 25.10.2013 and thereafter it was cancelled on the ground that the petitioner has failed to the duty.



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5. According to petitioner, he has not received any appointment order or communication from the first respondent, hence he made several representations to allow him to join the post of Driver in the first respondent corporation, but there was no response from the first respondent and employment was denied, hence sought for a direction.

6. Learned counsel for the respondent has filed additional counter affidavit and contended that the respondent has notified the vacancies for the post of Drivers and Conductors on 18.07.2013 vide Proceeding No.41/19995/E2/TNSTC/2013 and 419 candidates were sponsored by District Employment Officer, Employment Exchange, Villupuram, for the post of 100 Reserve Drivers. It is further submitted that the petitioner participated in the interview, held on 31.08.2013 and declared as selected vide Proceeding No.41/19995/E2/TNSTC/2013, dated 25.10.2013 as a Reserve Driver. Appointment order was issued with certain terms and conditions of employment, however the petitioner failed to report duty , thereby, the vacancies were filled up from other available candidates, thereby submitted that the petitioner is not entitled for the relief sought



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respondent has filed list of tapals sent on 14.11.2013. These list shows that on 14.11.2013, about 27 tapals were sent to various persons, out of which serial No.55 is the letter addressed to the petitioner. It is submitted by learned counsel for the petitioner that though the list of Tapals shows that some correspondence is made with the petitioner, the respondent No.1 has not filed any proof that the communications sent to the petitioner has been received by the petitioner. It is true that the respondent No.1 has not filed any proof to show that the appointment order has been received by the petitioner. However, it is not clear from the record whether the appointment order was sent by registered post with acknowledgement or not. The list filed by the respondent No.1 certainly shows that the petitioner was sent some tapals on 14.11.2013. As per the General Clauses Act, in case if there is a proof that the a letter has been addressed to a person to the address where such person has been residing it is deemed that the addressee has received the communication. The petitioner has not disputed that the details of the tapals filed by the respondent No.1. The letter was sent to the Kanthampakkam post and that there is no dispute that petitioner was residing in the said address. In the reply given to the advocate of the petitioner the respondent No.1 has



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mentioned the address of the petitioner as Kanthampakkam. Therefore, it appears that the respondent No.1 has sent the communication to the said address. Further those communications were sent in the year 2013 and as per the directions of the Court, the petitioner has filed proof of sending the communication now in the year 2024. Therefore it is very difficult to get the postal acknowledgement even if it was available by then. Therefore basing on the records submitted by the respondent No.1, there is a prima facie case for the respondent No.1 to show that appointment letter was communicated to the petitioner.

10. Further it is not only the petitioner who competed for the said post. There were many Drivers, all of them were similarly communicated and that they have also joined the service. The petitioner has not attributed any thing like malafied on the respondent No.1 for not sending the appointment orders to the petitioner, when there are no such allegations, the petitioner cannot say that the communication was not sent to the petitioner. Further the petitioner who appeared for the interview in the year 2013 and who was expecting appointment orders has again appeared for the interview for 2014 recruitment. Once the



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notification for the year 2014 was issued and the petitioner has appeared for the interview, he must have understood that the recruitment for the year 2013 was completed. The petitioner having waited for some time after the interview in the year 2013, could have enquired the respondent No.1 as to what happened to the petitioner appointment. The petitioner has enquired only in the year 2015 that is roughly about two years after the cancellation of the appointment order. Had the petitioner enquired the respondent No.1, few days after the completion of the interview, then certainly it would have benefited the petitioner.

11. Considering all above, this Court is of the opinion that there is delay and laches on the part of the petitioner for not immediately approaching the respondent No.1 to enquire either through orally or through representation of advocate about his selection in the year 2013. Further even otherwise, the petitioner is questioning the recruitment which was conducted about 11 years ago, the recruitment for the year 2013 have already been completed, therefore, after lapse of 11 years when the recruitment was completed long ago, the relief sought for by the petitioner cannot be granted.



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12. In view of the discussions made above, there is a prima facie material to show that respondent No.1 has sent the communication to the petitioner about his appointment as Driver on 14.11.2013 and thereby the relief sought for by the petitioner cannot be granted.

13. Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes / No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
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Dr.D.NAGARJUN, J.
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