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W.P.No.4375 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4375 of 2022 and
WMP.No.4494 of 2022

K.Gopinath

... Petitioner

Vs.

- 1.The Secretary to Government of Tamilnadu,
Animal Husbandry, Dairying and Fisheries
Department, Secretariat,
Chennai 600 009
- 2.The Dairy Development Department,
Rep. By the Commissioner for Milk
Production and Diary Development,
Madhavaram Milk Colony,
Chennai 600 051
- 3.The Tamilnadu Cooperative Milk Producers
Federation Limited,
Rep. By the Managing Director,
Aavin Illam, Head Office,
No-3A, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai 600 035
- 4.The Interview/Selection Committee,
The Tamilnadu Cooperative Milk Producers
Federation Limited,
Aavin Illam, Head Office,
No-3A, Pasumpon Muthuramalingam Salai,
Nandanam, Chennai 600 035

... Respondents



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PRAYER:

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Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the proceedings of the third respondent in Ref.No.4192/PE2/2015 dated 25.10.2021, quash the same and consequently direct the third respondent to appoint the petitioner to the post of Manager with retrospective effect with reference to the direct recruitment conducted by the third respondent vide circular in Ref.No.7751/Pers.Estt.2/2014 dated 25.10.2024 and consequently grant monetary and all attendant benefits including promotion, seniority with pay protection.

For Petitioner : M/s.L.P.Maurya

For Respondents

For R1 : Mr.E.Vijay Anand,
Additional Government Pleader

For R2 to 4 : Ms.Regamitha
for Mr.U.Baranidharan

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 25.10.2021 thereby rejected the request made by the petitioner seeking appointment to the post of Manager with



2. The petitioner had joined the Office of the third respondent as Supervisor (Maintenance) on 06.03.2000. Now he is working as Manager (Purchase) in Engineering Discipline in the Office of the third respondent. He is a physically challenged person with 60% locomotive disability. While being so, the third respondent notified vacancies to the post of Manager(Finance), Manager(Engineering), Manager(Marketing), Manager(Administration), Deputy Manager(DC), Deputy Manager(DB), on 25.10.2014 for conducting interview. The petitioner applied for the same and attended interview for the post of Manager(Engineering), Manager(Marketing) and Manager(Administration). However, the fourth respondent did not award any mark for the petitioner's qualification of diploma. Further, the fourth respondent failed to consider his disability for reservation for the said post under physically handicapped category. As per GO.Ms.No.87 of the Social Welfare Department dated 17.07.2008, handicapped should be accommodated by dividing 200 points roster into six segments in any one of the points from the first scheme of 1 to 33 points and so in the 200 points communal roster, taking



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into account of General Turn Priority or Community Backward Class Priority to which the petitioner belongs to. Therefore, the petitioner submitted representation seeking to select him in any one of the Manager posts. However, it was not considered and as such the petitioner approached this Court in WP.No.8420 of 2015 for direction. This Court by order dated 08.03.2021 directed the respondents to consider the representation submitted by the petitioner on merits and in accordance with law. Now the request made by the petitioner has been rejected by order dated 25.10.2021, which is impugned in this writ petition.

3. The learned counsel appearing for the petitioner would submit that no reservation was followed during the recruitment to the post of Manager. The petitioner was not awarded marks for his qualification in diploma. In support of his contention, he relied upon the judgment of the Hon'ble Gujarat High Court in the case of ***Rajesh Motibhai Vs. State of Gujarat and Others*** reported in ***2016 (3) RSJ 22*** in which Persons with Disabilities (Equal Opportunities, Protection of Rights And Full Participation) Act, 1995 was dealt with in a detailed manner and held that 3% reservation is on total number of vacancies in the cadre strength in



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100 point roster and point Nos.1, 34 and 67 as reserved is to fill in the first available suitable vacancy from 1 to 33, first available suitable vacancy from 34 to 66 and first available vacancy from 67 to 100 with the disabilities.

3.1 He further submitted that Section 33(1) of Persons with Disabilities (Equal Opportunities, Protection of Rights And Full Participation) Act, 1995 mandates that every appropriate Government shall appoint in every establishment, such percentage of vacancies, not less than 3% for persons or class of persons with disability of which 1% each shall be reserved for persons suffering from: (i) blindness or low vision (ii) hearing impairment, (iii) locomotive disability or cerebral palsy. However, it was not followed while recruiting to the post of Manager in various divisions.

4. Heard, the learned counsel appearing on either side.

5. On perusal of the counter filed by the third respondent, revealed that as per the circular dated 24.12.2013 issued by the



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Commissioner for Milk Production and Diary Development Department,
the marks to be awarded for the post of Manager under Direct
Recruitment Rules as follows:

S. No.	Details	Max Marks
1	Marks obtained in the SSLC/X Std	15
2	Marks obtained in +2	10
3	Marks obtained in the prescribed qualification	50
4	Marks of higher qualification in the same field	10
5	Experience in related field(Should have been registered in Employment Exchange)	5
6	Oral Test	10
	TOTAL	100

6. Insofar as the qualification of diploma is concerned, it is equivalent to +2 as per the circular dated 24.02.2015 and GO.Ms.No.242 of Higher Education (P1) Department dated 18.12.2012. Therefore, the petitioner was awarded mark for his diploma qualification on par with the marks to be awarded for +2 qualification. Insofar as the marks are concerned, the petitioner was awarded marks for his diploma qualification as equivalent to +2 qualification and he was awarded 55.22 marks for the post of Manager(Engineering) whereas the selected candidates under BC communal turn has scored 62.63 marks. Similarly,



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for the post of Manager (Administration), the petitioner had scored 49.48 marks whereas the selected candidate under BC communal turn has scored 53.25 marks. Insofar as the post of Manager (Marketing) is concerned, no BC communal turn was called for in the direct recruitment notification to accommodate the petitioner.

7. Further, as per GO.Ms.No.87 Social Welfare and Nutritious Meal Programme (SW.4) Department dated 17.07.2008, one out of every 33 appointments made in a category should be reserved for differently abled candidates. As per the recruitment notification, less than 5 posts have been called for the post of Manager(Engineer), Manager(Marketing) and Manager(Administration) under direct recruitment. Moreover, the communal turns called for as per GO.Ms.no.142 Personnel and Administrative Reforms (K) Department dated 14.10.2009 and the priority candidates sponsored by the Employment Exchange were only selected under each communal turn in the order of priorities. As such, the judgment relied upon by the petitioner is not applicable to the case on hand.



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8. Therefore, the request made by the petitioner was rightly rejected and this Court finds no infirmity or illegality in the impugned order dated 25.10.2021 of the third respondent. As such, this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

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Department, Secretariat,
Chennai 600 009
- 2.Commissioner for Milk
Production and Diary Development,
The Dairy Development Department,
Madhavaram Milk Colony,



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Chennai 600 051

3. Managing Director,
The Tamilnadu Cooperative Milk Producers
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4. The Interview/Selection Committee,
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G.K.ILANTHIRAIYAN, J.

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