



W.P.No.4685 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.4685 of 2011

Sathiyavathi

...Petitioner

Vs.

1.The District Collector,
Vellore District, Vellore.

2.The Revenue Divisional Officer,
Ranipet Division, Ranipet,
Vellore District.

3.The Tahsildar,
Arcot Taluk, Vellore District - 632 506.

4.The Emoloyment Exchange Officer,
Vellore.

5.M.Jeyavelu

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in Na.Ka.A3/7704/05 dated 18.07.2008, Na.Ka.A3/551/2010 dated 02.05.2010 and R.No.A3/7704/2008 dated 19.08.2010 and to quash and consequently direct the Official Respondents to fill up the post of Village Assistant for the Village of Nagaleri by considering the candidature of the petitioner.

(Prayer amended as per order dated 27.11.2017 in WMP No.32826 of 2017 in W.P.No.4685 of 2011.)



WEB COPY



W.P.No.4685 of 2011

For Petitioner : Mr.J.Srinivasa Mohan
For R1 to R4 : Mr.R.Neelakandan, AAG
Assisted by Mr.D.Gopal
Government Advocate

ORDER

This Writ Petition is filed to call for the records of the third respondent in Na.Ka.A3/7704/05, dated 18.07.2008, Na.Ka.A3/551/2010, dated 02.05.2010 and R.No.A3/7704/2008, dated 19.08.2010 and to quash the same and consequently direct the official respondents to fill up the post of Village Assistant for the Village of Nagaleri by considering the candidature of the petitioner.

2.The case of the petitioner is that petitioner received intimation from the third respondent in R.No.A3/8551/06, on 25.03.2007, asking her to appear for an interview on 29.03.2007. As per the G.O.Ms.No.429, dated 08.08.2007, the ratio of 1:1 has to be followed by the Employment Exchange was relaxed and the ratio of 1:5 was directed to be followed. The said G.O. also referred to the letter of the Special Commissioner of Revenue Administration stating that the vacancies of Village Assistants are to be filled up by the persons, who are the residents of the same village and know cycle riding. Petitioner was shocked to see that the fifth respondent was appointed as Village Assistant in July 2008.



W.P.No.4685 of 2011

She came to know that the appointment was made illegally without following the procedures. The respondents initiated action and third respondent in his order dated 27.12.2008, in R.No.A3/7704/2008, removed the fifth respondent from service on the ground that she was not the resident of the same village and she manipulated the ration card to enable the Employment Exchange to forward her name. Petitioner filed W.P.No.2219 of 2009 to direct the respondents to consider her representation to pass orders to fill up the vacant post of Village Assistant by considering her name for the Village of Nagaleri. This Court directed the respondents to consider the representation and pass orders. Since the same was not complied, she filed Cont.P.No.1130 of 2009. During the pendency of the petition, her representation was rejected.

3.The submission of the learned counsel for the petitioner is that as per G.O.Ms.No.429, dated 08.08.2007, which was issued subsequent to the interview held by the respondents, the vacancy should be filled based on the list already sent by the employment exchange, in other cases, the ratio of 1:1 to be fixed in terms of G.O.Ms.No.65, Labour and Employment Department, dated 30.03.2007. When a proposal was submitted for enhancement of this ratio from 1:1 to 1:20, that was negatived and the ratio was enhanced to 1:5 from 1:1. Before issuance of this Government Order, petitioner's interview was over.



W.P.No.4685 of 2011

Instead of appointing the petitioner or some one else, who participated in the interview held on 29.03.2007 and without declaring the result, a fresh list was called for from the employment exchange. The employment exchange deliberately omitted to send the name of the petitioner, but the name of the fifth respondent who was not residing in the village was sent and he was selected.

4.The third respondent passed impugned proceedings, dated 02.05.2010, allowing the fifth respondent to continue in the post of Village Assistant. This Court directed the third respondent to pass fresh orders after hearing the petitioner. The recruitment process was initiated in December 2006, the first list from the Employment Exchange was sent in March 2007 and the interview was held on 29.03.2007. The G.O. Mandates recruitment as per the Employment Exchange seniority. When these things were happening, fifth respondent did not reside in Nagaleri village. That is the reason why his appointment was cancelled. Petitioner's employment exchange seniority is dated 24.07.1989, whereas the fifth respondent's employment exchange seniority is dated 14.12.1998. The fifth respondent managed to send the second list including his name in the list. Petitioner's name was omitted in the second list. There is no explanation as to why the first selection process was stopped midway and second list was called for and the fifth respondent was appointed.



W.P.No.4685 of 2011

When the petitioner has requisite qualification, not appointing her and appointing the fifth respondent, who was not residing in the village, especially, by not including petitioner's name during the second interview is illegal and thus, he prayed for the reliefs aforestated.

5.It is the case of the fourth respondent adopted by the respondents 1 to 3 & 5 is that the Tahsildar, Arcot, notified 8 vacancies of Village Assistants in Arcot Taluk including Nagaleri Village. The District Employment Office, Vellore, sponsored a list of candidates in the ratio of 1:20 for each vacancy. Petitioner was also a candidate sponsored by the District Employment Office for the post of the Village Assistant in Nagaleri Village. Due to administrative reason from the Taluk Office side, the recruitment was cancelled. Taluk Office called for a fresh list of candidates with revised reservation based on the instructions they have received from their department. The department revised the sponsorship ratio to 1:5 from 1:20. Based on the revised reservation and sponsorship ratio (1:5), the District Employment Office, Vellore, sponsored the list of candidates for the post of Village Assistants at Arcot, Taluk Office. Because of the change of reservation and sponsorship ratio, petitioner's candidature was not well within the sponsoring limit of the District Employment Office. Hence, her name was not included in the second list. It is



W.P.No.4685 of 2011

accepted that the Village Assistants should have been appointed from the persons, who are the residents of the same village and who knew bicycle riding.

6.The case of the fifth respondent is that when the interview was held, the petitioner was not a candidate and therefore, she is not an aggrieved person and she cannot challenge the appointment of the fifth respondent. Fifth respondent was appointed as Village Assistant in Nagaleri Village, by an order dated 18.07.2008. Without following the procedures, the third respondent cancelled the appointment. That was challenged by way of a writ petition in W.P.No.156 of 2009. The writ petition was disposed of by directing the third respondent to afford an opportunity to the fifth respondent and pass orders. Thereafter, the third respondent conducted an enquiry with regard to the residential status of the fifth respondent and passed an order confirming that the fifth respondent was residing in the village even before attending the interview and after appointment he is still residing there. He is no way connected with the non appointment of the petitioner. Thus, he prayed for dismissal of this petition.

7.Considered the rival submissions and perused the records.



W.P.No.4685 of 2011

8.The claim of the petitioner is that the petitioner participated in the interview held on 29.03.2007 for the selection to the post of Village Assistants in Nagaleri Village. It is also the admitted case of the respondents, especially, in the counter filed by the fourth respondent, it is seen that the selection process was cancelled due to administrative reasons. It is not explained as to what is the administrative reasons, which requires the selection process to be cancelled when the selection process was almost completed. The report of the first respondent is produced for the perusal of this Court. This report confirms that the petitioner's name was included in the list of candidates recommended by the Employment Exchange in 2007 for the post of Village Assistant and interview was conducted. It is further stated that due to administrative reasons the recruitment process was aborted for the year 2007. It is also stated that in order to fill in the vacancies of the Village Assistants including the year 2008, the District Employment Officer, Vellore District, was requested once again to send the list of eligible candidates, in which 37 candidates were recommended by the District Employment Exchange, Vellore District. In the second list of candidates, recommended in 2008 by the District Employment Officer, Vellore District, petitioner's name was not included, but fifth respondent's name was included. As per the norms of the communal reservation and roster, 7 candidates including the fifth respondent were appointed to the post of the



W.P.No.4685 of 2011

Village Assistants. Based on the case filed by the petitioner, fifth respondent and three others were removed by the Tahsildar, Arcot, for the reason that they were appointed by fraudulent means by producing bogus residential proof. The fifth respondent and three others filed writ petitions in W.P.Nos.117/2009, 186/2009, 1078/2009 and 1079/2009, respectively, against their removal. This Court passed orders on these writ petitions on 07.01.2009 and 22.01.2009 and thereafter, they were reinstated into service and still they are working as Village Assistants. Since the petitioner was not recommended by the District Employment Officer, Vellore, she was not considered for the recruitment for the post of the Village Assistants in 2008.

9.From the admitted position taken by the respondents 1 to 4 and the counter of the fifth respondent and the report of the first respondent, it is clear that the first interview was aborted midway for no reason. No explanation was offered as to why the first selection process was aborted midway after the interview was completed and why the petitioner was not recommended in the second list. The submission that because of the revision of the ration to 1:5 from 1:20, petitioner's name could not be recommended is a far fetched submission and against the Government Order. As already indicated, G.O.Ms.No.429, dated 08.08.2007, mandates filling up the vacancies as per the



W.P.No.4685 of 2011

list already sent by the Employment Exchange. Only in all other cases, the ratio of 1:1 was fixed. When it was sought that the ratio should be enhanced from 1:1 to 1:20, it was negatived. But 1:1 ratio was enhanced to 1:5. There is nothing indicated about adopting the communal roster in G.O.Ms.No.429, dated 08.08.2007. It is not in dispute that the petitioner's employment exchange seniority is dated 24.07.1989, whereas the fifth respondent's employment exchange seniority is dated 14.12.1998. Petitioner was way ahead of the fifth respondent. Still, the petitioner's name was not sent in the second list. There is no proper explanation offered by the fourth respondent or, for that matter, the other respondents. Therefore, this Court finds substance in the submission of the learned counsel for the petitioner that the petitioner was deliberately not considered and not appointed after the completion of the first interview and that her name was not forwarded in the second list.

10. Now the issue is that the what are the reliefs, the petitioner is entitled to. The Writ Petition is filed in 2011. Petitioner was 39 years old in 2011. Now she is about 52 years. The fifth respondent's appointment is also challenged in this Writ Petition. As detailed above, the fifth respondent's appointment was cancelled and on the Writ Petition filed by him in W.P.No.156 of 2009, he was given an opportunity of hearing and they were reinstated. The



W.P.No.4685 of 2011

fifth respondent is 55 years old. Now it is too late for asking him to go home, even assuming that his appointment is irregular or illegal. There is apparent denial of opportunity to the petitioner in the second interview. Therefore, considering the age of the petitioner and the fight she has undertaken to the unjust met out to her, this Court directs the respondents 1 to 4 to appoint the petitioner in the post of the Village Assistant relaxing the age and other criteria, if the petitioner possesses all other required qualifications. This order should be complied within a period of four months from the date of receipt of a copy of this order.

11.It is informed by the learned counsel appearing for the parties that Vellore district has been trifurcated as Vellore, Ranipet and Tirupattur. Petitioner resides in the village which comes under the jurisdiction of Kalavai Taluk of Ranipet District. Therefore, the petitioner shall be accommodated in any of the three districts, as Village Assistant, preferably in Ranipet District.

12.Accordingly, this Writ Petition is allowed. Consequently, connected Miscellaneous Petition, if any, is closed. No costs.

sli
Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No

22.03.2024



W.P.No.4685 of 2011

WEB COPY

- To
- 1.The District Collector,
Vellore District, Vellore.
 - 2.The Revenue Divisional Officer,
Ranipet Division, Ranipet,
Vellore District.
 - 3.The Tahsildar,
Arcot Taluk, Vellore District - 632 506.
 - 4.The Emoloyment Exchange Officer,
Vellore.



WEB COPY



W.P.No.4685 of 2011

G.CHANDRASEKHARAN, J.

sli

W.P.No.4685 of 2011

22.03.2024