



W.P.No.33713 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.33713 of 2012

B. Karthikeyan S/o. R. Balasubramanian

... Petitioner

vs.

1. The Government of Tamil Nadu,
represented by its Secretary,
Rural Development Department,
Fort St. George, Chennai-600 009.

2. The Director of Rural Development Department,
Panagal Buildings, Saidapet, Chennai-600 015.

3. The District Collector,
Villupuram, Villupuram District.

4. The Commissioner,
Thiruvannainallur Panchayat Union,
Villupuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in his proceeding No.Na.Ka.PT1/14042/2010 dated 25.05.2011 and quash the same and consequently direct the



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respondents herein to appoint the petitioner as Office Assistant in time pay scale as per G.O. Ms. No.55, Rural Development Department dated 15.06.2006 with retrospective effect with all monetary and other attendant benefits.

For Petitioner : M/s. K. Raja

For Respondents : Mr. M. Murali, Government Advocate
[for R1 to R3]

Mr. T. Chazhiyan [for R4]

ORDER

This petition has been filed seeking to issue Writ in the nature of Certiorarified Mandamus calling for the records calling for the records of the 3rd respondent in his proceeding No.Na.Ka.PT1/14042/2010 dated 25.05.2011 and quash the same and consequently direct the respondents herein to appoint the petitioner as Office Assistant in time pay scale as per G.O. Ms. No.55, Rural Development Department dated 15.06.2006 with retrospective effect with all monetary and other attendant benefits.

2. The case of the petitioner is that the petitioner was appointed as Helper to Pump Fitters on 04.03.1988 and from the date of his appointment



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till 1987, he was paid salary from the General Fund of the Panchayat Union. The respondents wanted to entrust hand pump maintenance to the Village Panchayat.

3. The learned counsel for the petitioner would submit that the 1st respondent passed G.O.Ms. No.55, Rural Development Department dated 15.06.2006 to appoint the helpers to hand pump fitters who were appointed between 1982 and 01.04.1997 and after completion of 10 years of service without any break, either in the post of Night Watchman or in the post of Office Assistant in Panchayat Union as per their qualification in time scale of pay. The above said G.O. is made applicable only to the helpers to hand pump fitters, who were appointed between 1982 and 01.04.1997. The power of appointing the helpers to hand pump fitters as per the qualification was delegated to the 3rd respondent namely the District Collector.

4. The learned counsel would further submit that since the petitioner was appointed on 04.03.1988 and was working on 01.04.1997 and as such he ought to have been appointed by the 3rd respondent in the post of Office



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Assistant in the time scale of pay since he possessed S.S.L.C. Qualification. It is further submitted that pursuant to the above said G.O., the 4th respondent also in his proceedings dated 29.04.2010 recommended the 3rd respondent to appoint him to the post of Office Assistant. Thereafter since the petitioner was not appointed by the 3rd respondent, he made a representation dated 08.11.2010 to the 3rd respondent to appoint him in the post of Office Assistant pursuant to the recommendations made by the 4th respondent. Since the same did not yield any result, he filed W.P. No.26946 of 2010 before this Court seeking for a direction in the nature of Writ of Mandamus to the 3rd respondent to forthwith appoint the petitioner as Office Assistant in time scale of pay as per G.O. Ms. No.55, Rural Development Department dated 15.06.2006. This Court, by order dated 03.03.2011, directing the 3rd respondent to whom the petitioner gave the representation dated 08.11.2010 to go into the merits of the petitioner's claim and to see whether the G.O. Ms. No.55 is applicable to the case and pass appropriate orders on merits as per law within a period of 12 weeks from the date of receipt of copy of the order.

5. The learned counsel further submitted that instead of appointing



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him as per his representation, Government Order No.55, Rural Development Department dated 15.06.2006 and as per the orders of this Court, the 3rd respondent passed an impugned order on 25.05.2011 and rejected his claim on the ground that as on date of passing G.O. Ms. No.55, Rural Development Department dated 15.06.2006, the petitioner was not in service of the respondents.

6. Aggrieved by the above said order passed by the 3rd respondent dated 25.05.2011, the petitioner has come forward with the present Writ petition.

7. The learned counsel would further submit that in Ground (d) of the affidavit, it is mentioned that the petitioner did not work as permanent employee of Transport Corporation and based on the same, the employee who had been working as helper to pump fitters for more than 15 years should not be denied appointment.

8. It is further submitted that as per the Government Order, a person should have completed 10 years of service without break and the 3rd



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respondent could not add the new qualification that he should be working as on the date of Government Order which is illegal. The learned counsel would further submit that in the aforesaid Government Order, it was mentioned that 933 employees out of 978 employees were to be appointed either as Office Assistant or Night Watchman based on their qualification and in the above said 933 employees, the petitioner was also one employee. Therefore, the 3rd respondent cannot deny the appointment as Office Assistant saying that as on the date of Government Order dated 15.06.2006, the petitioner was not in service.

9. A counter affidavit was filed by the 3rd respondent in the year March 2013. The learned Government Advocate representing the respondents would submit that the petitioner was in pursuit of a job in Tamil Nadu Transport Corporation as on the date of issuance of Government Order dated 15.06.2006 and the same was also stated in the impugned order that the petitioner was working as Conductor with effect from 01.09.2005. It is further submitted that at the time of issuance of this Government Order, he was not in service at all and hence he is not entitled to be included in the panel and the Government Order dated 15.06.2006 is



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not applicable to the petitioner at all.

10. It is further submitted that it is not fair on the part of the petitioner to claim the post of Office Assistant, once he left the job and joined in Tamil Nadu Transport Corporation. The petitioner is not entitled to claim the post, since he was not at all working in the station for his name to be recommended and he did not confirm to the guidelines mentioned in the Government Order. In the earlier Writ petition, this Court had directed the 3rd respondent to go into the merit of the petitioner's claim and to see whether the Government Order dated 15.06.2006 is applicable and to pass orders on merits as per law. Accordingly, the impugned order dated 25.06.2011 was passed turning down the claim of the petitioner as he is already in a job and he was not working in the said post of Helper to Pump Fitter at the time of issuance of Government Order dated 15.06.2006.

11. Heard both sides'. Perused all the materials available in record.

12. It is submitted that the petitioner was appointed between 1988 and 01.04.1997, as per G.O. Ms. No.55, Rural Development Department



13. The petitioner had already a Writ petition earlier and this Court directed the 3rd respondent to consider the case of the petitioner in view of the Government Order in G.O.Ms No.55, Rural Development Department dated 15.06.2006 on merit and the impugned order was passed on 25.05.2011 by the 3rd respondent, the District Collector stating that the said Government Order is not applicable to the petitioner, since he was not working as Helper to Pump Fitter in the department of 1 & 2 respondents, at the time of issuance of the Government Order dated 15.06.2006.

14. It is also pertinent to note that the petitioner was working as Conductor from 01.09.2005 to 2010, which is stated in the impugned order as well as in the representation dated 08.11.2010 and also in Ground 'd' of the affidavit filed by the petitioner in support of the Writ petition.



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15. This apart, the age of the petitioner as on the date of filing of the Writ petition was 45 and due to efflux of time, as on date, the age of the petitioner is 57.

16. In view of the above said factual matrix of the case, this Court is not inclined to interfere with the order passed by the 3rd respondent dated 25.05.2011 and the same is hereby confirmed.

17. In the result, this Writ petition stands dismissed. There shall be no order as to costs.

13.02.2024

mjs

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No



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- To
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represented by its Secretary,
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MR. J. SATHYA NARAYANA PRASAD, J.,

(mjs)

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