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W.P.No.6990 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	15.12.2023
Pronounced on	13.02.2024

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**W.P.No.6990 of 2021andWMP.Nos.7541 & 7542 of 2021

Reena.J

...

Petitioner

Vs.

1. The Chairman,
State Recruitment Bureau,
70, Periyar E.V.R. Main Road,
N.V.Natrajan Maaligal,
Kilpauk, Chennai- 600 010.
2. The Registrar, Co-operative Societies,
170, Periyar E.V.R. Main Road,
N.V.Natrajan Maaligai,
Kilpauk, Chennai- 600 010.
3. The Managing Director,
Tamil Nadu State Apex Cooperative Bank,
N.S.C.Bose Road,
Sowcarpet, Chennai- 600 001

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Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a 'WRIT OF MANDAMUS' directing the second and third respondents herein to furnish the wait listed candidates for the posts notified under the Notification dated 11.01.2020 made in Advertisement No.1-2019 and allocate the unfilled post of Assistant under the third respondent herein for the petitioner.

For Petitioner : Mrs.G.Thilagavathi, Senior Counsel for
Mr.R.Gopinath.

For Respondents : Mr.P.Sanjai Gandhi, Government Advocate
for RR 1&2

: Mr.L.P.Shanmugasundaram for R3

ORDER

This petition has been filed to direct the first and second respondents to furnish the wait listed candidates for the post notified vide Notification dated 11.01.2020 in Advertisement No.01-2019 and allocate the unfilled post of Assistant under the third respondent herein.

2. The petitioner had applied for the post of the Assistant in the Tamil Nadu State Co-operative Bank vide Application No.51501544 on 20.01.2020, pursuant to the Notification dated 11.01.2020, made in



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Advertisement No.01-2019. After completion of the written examination, interview etc., selection list was published on 12.12.2020. The petitioner had obtained 46.75 marks in the written examination and 8 marks in the interview, totalling to 54.75 marks. The petitioner falls under the category of "BC Women".

2.1. Since the petitioner's name was not found in the final list of selected candidates and not given with the appointment order, she made an application under Right to Information Act and sought informations about number of candidates who were recruited and joined and also about the information on number of vacancies available. She was informed that 5 such persons did not join in the selected post. She was also given with the information that as on 29.12.2021, 10 Assistants, who have already joined in the same selection, have resigned their job. So it is submitted that if the waiting list is released, the petitioner would get the appointment in future. Since the said exercise was not done, the petitioner has filed this petition seeking direction against the respondents 2 and 3 to furnish the waiting list of candidates for the post notified and



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to allocate one unfilled post for the petitioner.

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3. Heard, Mrs.G.Thilagavathi, learned Senior Counsel for the petitioner and Mr.P.Sanjai Gandhi, learned Government Advocate for the respondents 1 & 2 and Mr.L.P.Shanmugasundaram, learned counsel Special Government Pleader for the 3rd respondent and perused the materials available on records.

4. Mrs.G.Thilagavathi, learned Senior Counsel for the petitioner submitted that as on 29.12.2021, there were 10 vacancies along with 5 vacancies for which the selected candidates failed to join. The selection list was published on 12.12.2020. Within six months time from the completion of the selection, five vacancies arose. By adding up those who have joined and resigned as on 29.12.2021, the total vacancies remained at 15.

4.1. The petitioner had obtained 54.75 marks which is a little below than 55.60, the cut-off for "BC-Women". The petitioner's



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candidature was non-suited because her marks were a little below than the cut-off marks. However, the petitioner would be in the next waiting list. Since 15 vacancies remained unfilled even after the completion of the selection process, she could have the chances of getting the appointment, if the wait list was released.

5. In this regard, the attention of this Court was drawn to the Judgement of this Court held in WP.No.24279 of 2021 dated 07.11.2023. By citing the above judgement, the learned Senior Counsel for the petitioner submitted that the above case is squarely applicable to the case on hand. It is claimed that the petitioner is also similarly placed as that of the petitioner in the above Writ Petition and hence, the Writ Petition should be allowed.

6. Mr.P.Sanjai Gandhi, learned Government Advocate for the respondents 1 & 2 submitted that in the Notification nothing has been mentioned about the filling up of the vacancies from the waiting list. Even as per Clause 5(c) of the Sub Rule 151 of the Tamil Nadu Co-



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operative Societies Rules, 1988, for every four vacancies or part thereof, one more candidate shall be selected and kept in the waiting list and the waiting list shall be in force for a period of six months from the date of finalization of selection. The selection, pursuant to the above notification, was over in the year 2021 itself. In the event of failure on the part of the selected candidates to join in the respective posts, the concerned Banking institution alone has to send a request for sending the name of the wait listed candidates to be appointed in the place of the defaulted appointees. In the case on hand, the 3rd respondent did not call for any waiting list from the 1st respondent. Hence, the respondents did not have any obligation to publish the waiting list. The petitioner applied to the post by accepting the terms and conditions found in the notification and hence, the petitioner cannot seek further directions.

7. From the above submission of Mr.P.Sanjai Gandhi, learned Government Advocate for the respondents 1& 2, it is clear that as per Clause 5(c) of the Sub Rule 151 of the Tamil Nadu Cooperative Societies Rules, 1988, a waiting list should be kept in force for a period of six



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months from the date of finalization of the selection. The number of candidates to be kept under the waiting list would be one for every four vacancies. The waiting list will be in force for a period of six months. The whole object of having a waiting list is to accommodate them with the places of those candidates who have been already appointed but omitted to join or joined and then left the job within six months.

8. As per the information furnished to the petitioner under the Right to Information Act, ten Assistants who have already joined had resigned their job and five more candidates failed to even join. Since there are fifteen vacancies, the waiting list could have been released in accordance with the vacancies that had arisen within a period of six months from the date of completion of the selection. In fact, the petitioner herself has filed this writ petition within six months. Even after the writ petition was filed the respondents have not chosen to release the waiting list.

9. It is submitted by Mr.P.Sanjai Gandhi, learned Government



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Advocate for the respondents 1& 2 that concerned banking institution from which the candidates had resigned or not joined should send a request for sending the name of the waiting list candidates to be appointed in their places.

10. A simple reason stated by the 1st respondent is that the 3rd respondent bank did not call for any wait listed candidates to be placed against the vacancies that arose within the period of six months from the date of completion of selection. For negligence or indifference on the part of the respondents, the candidates who have subjected themselves to the terms and conditions and eligible to be placed in waiting list, should not get affected.

11. In the case of *P.Kalairani Vs The Registrar of Co-operative Societies and another* made in W.P.No.24279 of 2021 dated 07.11.2023, the similarly placed person has also filed a writ petition seeking the same kind of relief. In the said matter, this Court has made the following observation, which is squarely applicable to the facts situation of this



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case also:

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“5. For the inaction on the part of the second respondent, the candidates who have undergone the selection process should not get affected. The whole object of creating waiting list candidate is to utilize the list whenever the selected candidates omitted to join the post. In this regard it is relevant to refer Rule No.151(5)(c) of the Tamil Nadu Co-operative Societies Rules, 1988 which is extracted under:

“For every four vacancies or part thereof, one more candidate shall be selected and kept in the waiting list which shall be in force for a period of six months from the date of finalization of selection.”

6. As per the above Rule 151(5) (c) of Tamil Nadu Cooperative Society Rules, for every four vacancies, one candidate shall be selected and be kept in the waiting list. Since five candidates have not chosen to join, the petitioner who is standing in waiting list No.4, if found eligible to be posted in any of the vacancies as against the respective category, she ought to have been given with an opportunity irrespective of the fact whether six months time lapsed or not. This is in view of the fact that the default is not on the petitioner but due to the indifferent attitude of the second respondent who had not chosen to move the waiting list by sending request to the first respondent.

7. The petitioner had already filed a writ petition in W.P.No.17787 of 2021 and got the following direction:

' 4. Recording the same, this Writ Petition is disposed by directing the second respondent to fill up the vacancies / operate the waiting list and if the petitioner is otherwise found eligible, appointment order may be issued to the petitioner. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.'

In pursuant to the above order, the impugned order has been passed by the second respondent on 26.10.2021 by stating that waiting list got lapsed and that the petitioner has not been



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selected for the post.

8. It is nobody-s case that the petitioner got selected to the post and he has got an appointment order. Just because the petitioner is in the waiting list and the persons selected are not appointed, he has filed the earlier writ petition. Hence, the reasons stated in the impugned order that the petitioner was not selected is unreasonable and unnecessary. The essential elements that have to be considered for the case of the petitioner were not considered before passing an order. The second respondent ought to have considered the petitioner-s eligibility as against the existing vacancy corresponding to its category and passed an order. The waiting list got lapsed only on account of the negligence on the part of the second respondent and not due to any fault on the part of the petitioner.

9. Since the impugned proceedings have been passed by reasserting the same old reason that the waiting list got lapsed due to lapse of six months, I feel the second respondent should be directed to understand the order passed in the earlier Writ Petition in its true letter and spirit and pass orders.”

12. So, the respondents cannot harp upon the argument that the waiting list has already got lapsed and the process of recruitment has also been completed. The petitioner has approached this Court within six months from the date of selection and the respondents are aware of the fact that fifteen vacancies remain to be filled up in view of those candidates who have either resigned or opted not to join.

13. Under such circumstances, it is only appropriate to direct the



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respondents to release the waiting list and pass appropriate orders within six months from the date of completion of the selection process.

In the result, this Writ Petition is **disposed** and the respondents are directed to release the waiting list and pass appropriate orders if the petitioner is also found to be eligible for a posting against the fifteen vacancies that have arisen subsequent to the selection but within six months from the date of completion of the selection process. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes

Internet : Yes

Speaking

Neutral Citation : Yes



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R.N.MANJULA, J.

jrs

To

1. The Chairman,
State Recruitment Bureau,
70, Periyar E.V.R. Main Road,
N.V.Natrajan Maaligal,
Kilpauk, Chennai- 600 010.
2. The Registrar, Co-operative Societies,
170, Periyar E.V.R. Main Road,
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