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W.P.No.32638 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

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THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.32638 of 2013

G. Raja

... Petitioner

-Vs-

1. The Director of Fisheries
Teynampet,
Chennai 600 006.
2. The District Collector,
Salem District,
Salem.
3. The Deputy Director of Fisheries
Coimbatore Region,
Coimbatore.
4. The Assistant Director of Fisheries
(Inland Fish),
Mettur Dam,
Salem District.
5. R.Suresh

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.3676/A1/12 dated 28.09.2012 relating to the appointment of the fifth respondent as Fishery Assistant and quash the same and further direct the respondents to conduct fresh selection to



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fill up the post of Fishery Assistant.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.Abishek Murthy
Government Advocate for 1 to 4
Mr.M.R.Jothiraman for R5

ORDER

This writ petition has been filed to call for the records of the third respondent in Na.Ka.3676/A1/12 dated 28.09.2012 relating to the appointment of the fifth respondent as Fishery Assistant and quash the same and further direct the respondents to conduct fresh selection to fill up the post of Fishery Assistant.

2. By the proceedings of the Director of Fisheries in D.O.Letter No.25242/M3/2008 dated 30.05.2012 steps were taken to notify and fill up 72 vacancies in the post of Fishery Assistant. As per the said order selection has to be made by constituting a selection committee consisting of the District Collector, Regional Joint Director of Fisheries and Assistant Director of Fisheries concerned as members. There were five vacancies in the Salem District. Out of five, one vacancy was earmarked for the MBC quota. The petitioner as well as the 5th respondent belong to the MBC category. After selection even though the petitioner performed better, the 5th respondent was



selected. According to the petitioner, being aggrieved he obtained the selection proceedings under the Right to Information Act. It can be seen that the respondent did not adopt the correct procedure in conducting the selection. Firstly, the selection committee did not make the selection. Secondly, no marks were awarded for the ability to read and write. Therefore, the writ petitioner prays that the selection be set aside and the petitioner to be selected.

3. The writ petition is resisted by the respondents 1 to 4 by filing a counter affidavit. It is admitted that by proceedings dated 21.06.2012, the recruitment proceedings were initiated and the third respondent was instructed to follow the communal rotation, age and educational/skill qualifications etc.,. The qualifications are that the candidate should be able to read, write and speak Tamil and should know swimming, fishing, fabrication and mending of fishing nets. Preference would be given to the candidates who have certificates issued by the fishermen or from the training centre of the Fisheries Department.

4. Pursuant thereto, it is submitted that by an order dated 21.06.2012, the committee was formed. Accordingly, the Assistant Director of Fisheries met the District Collector in person along with the Regional Deputy Director of Fisheries, Coimbatore and the selection procedure was finalised by allotting 10



marks for fabrication and mending of nets, 10 marks for swimming, 10 marks for laying out and hauling of fishing net in water, 10 marks for oaring of coracle and 10 marks for in viva voce test. No marks were earmarked for reading and writing because no illiterate had participated. The list of candidates was called for from the Employment Exchange and the selection was conducted on 04.09.2012 and 05.09.2012. The skill tests were conducted in the presence of the District Sports Officer and Swimming coach and marks were also awarded by them. Therefore, the selection was conducted fairly and since the petitioner did not come within the zone of consideration he was not successful and hence he was not selected.

5. Heard *Mr S. Kamadevan* , learned counsel appearing for the petitioner who reiterated the submissions made in the affidavit filed in support of the writ petition and also by way of a reply to the counter affidavit filed by the respondents 1 to 4 and submitted that the very fact was that the Assistant Treasury Officer met the Collector in person and obtained his concurrence which would show that the committee never met and decided the various criteria and also the selection was made individually by the Assistant Director of Fisheries. This apart, only four posts out of five posts were filled up and since one post remains vacant and the petitioner has also got more marks and the petitioner has come to Court he can be considered against the unfilled



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6. Per contra, *Mr Abishek Murthy*, learned Government Advocate appearing on behalf of respondents 1 to 5 would submit that even the marks statement is produced by the petitioner along with the typed set of papers, from which it can be seen that it has been signed by the committee. Therefore the entire selection was conducted only by the committee by including appropriate experts also and the candidates were fairly assessed. The petitioner was not selected. Even in the MBC category, the petitioner was ranked No.3. The MBC candidate has joined. Therefore, the petitioner was rightly not selected and he cannot now pray for accommodating him in the vacancy which was in some other category.

7. Heard both sides and perused the materials available on record.

8. From the proceedings of the selection committee in awarding the marks it can be seen that all the three members of the committee have signed. The tests were conducted by including appropriate experts. No malafide is alleged. The contention is that no marks were allotted for literacy. When no illiterate candidates have participated and admittedly the petitioner, as well as



the 5th respondent, had school education, no exception can be taken to the procedure adopted by the selection committee. When the selection committee has awarded marks to the relevant criteria and the candidates have been objectively assessed through tests, it cannot be termed as arbitrary or illegal. Given the skilled nature of the service i.e., Fishery Assistant and when due importance have been given to their knowledge in swimming, mending of nets, hauling of fishing net in water, fabrication and oaring of coracle, the selection cannot be termed as arbitrary or illegal. No ground is made out to set aside the selection.

9. As far as the other left-out vacancy is concerned, admittedly the same is not from the MBC category. Even in the MBC category, the petitioner is not the next candidate. Therefore, the petitioner cannot be directed to be accommodated in the said vacancy merely because the petitioner has approached this Court. Respondents 1 to 4 have to fill up the said vacancy either from the proper waiting list, if any, or by resorting to subsequent notification and selection. Given the efflux of time of 11 years, now the respondents cannot be ordered to fill up from wait list also. Thus, in any view of the matter, the petitioner cannot be granted any relief by this Court.

10. In the result, the writ petition stands dismissed. No costs.



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Index : Yes/No
Speaking order/Non-speaking order
dpq

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