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W.P.No.9135 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.9135 of 2021

K.Eshak

... Petitioner

Vs.

1 Union of India
Rep. by the Superintendent of Post Officer ,
Pollachi Division, Pollachi 642 001.

2 Alices Dominic Raj
MTS, Valparai, So, Valparai.

3 The Central Administrative Tribunal
Madras Bench, Rep. by its Registrar
Chennai 600 104.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling the records of 3rd respondent pertaining to its order which is made in OA / 310 /01639 /2014 dated 06/12/2018 and quash the same consequent to direct the 1st respondent to treat the petitioner as if he was appointed as MTS at par with 2nd respondent with all service benefits including seniority and monitory benefits. (PRAYER AMENDED AS PER ORDER DATED 07.06.2024).

For Petitioner	: Mr.R.Malaichamy
For Respondents	: Mr.V.Ashok Kumar
	Senior Panel Counsel (for R1)
	NA-R2
	R3- Tribunal



W.P.No.9135 of 2021

WEB COPY

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order dated 06.12.2018 passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1039 of 2014 is under challenge in the present Writ Petition.

2. The petitioner was appointed as Extra Departmental Chowkidar (GDS Chokidhar) on 01.12.1981. Thereafter, he was appointed as Gramin Dak Sevak (GDS Packer) on 01.12.1988. He was posted as Branch Post Master with effect from 31.12.1998. The petitioner belongs to OBC category. He claimed age relaxation by 3 years for appointment to the post of Multi Tasking Staff (MTS). Since his case was not considered, he filed Original Application. The Central Administrative Tribunal dismissed the Original Application, which resulted in filing of the present Writ Petition.

3. The service particulars as provided in the order impugned has not been disputed by the parties to the Writ Petition. The issue raised before the Tribunal is that, whether the petitioner is entitled for age relaxation for appointment to the post of MTS. The Tribunal in Paragraph No.5 of the order



impugned, considered the Rule position and made a finding as follows,

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5. *It is further submitted that as per note 3 of the Gazette of India No.683/II S.3 Sub section (1) communicated in Ministry of Communications & IT Department of Posts Dak Bhavan, New Delhi vide their letter No.37-33/2009-SPB-I dated 28.1.2011 "the age limit for appointment of Gramin Dak Sevak shall be 50 years as on the first day of January of the year of the vacancy (relaxable to SC/ST upto 5 years and upto 3 years for those belonging to OBC) in accordance with the instructions issued by the Government of India." Since the vacancies for 2012 classified and approved as UR- 2, SC-1, eventually the age limit for UR vacancy as prescribed in the above said Gazette notification for recruitment of MTS for the year 2012 is 50 years of age only. There was no vacancy in OBC category. As on 01.1.2012, the age of the applicant was 50 years, 8 months and 21 days as his date of birth is 10.4.1961. Hence the applicant was not selected as MTS for the vacancies of 2012 as he exceeded 50 years as on 01.1.2012 and, therefore, the applicant has no grounds to claim that he should have been selected to the cadre of MTS on seniority basis. Hence they pray for dismissal of the OA.*



W.P.No.9135 of 2021

4. It is not in dispute that, the age limit fixed for Unreserved category for appointment to the post of MTS, during the relevant point of time was 50 years. The age relaxation was granted by the Government of India only by order dated 11.12.2018. As far as the present case is concerned, the vacancy for the post of MTS was notified in the year 2012. As on the date of notification and selection, 50 years was the age fixed for Unreserved category.

5. Mr.Malaichamy, learned counsel for the petitioner would submit that, though the post was notified under Unreserved category, the petitioner since belongs to OBC category, he is entitled for age relaxation.

6. The very ground raised is contrary to the legal position settled. The eligibility criteria for selection and appointment is being considered, only based on the condition stipulated for a particular category. Since because the candidate belongs to OBC category, he cannot seek age relaxation for appointment under the Unreserved category, for which, the age has been fixed as 50 years. More so, relaxation of age for appointment is impermissible. Power of relaxation cannot be exercised, so as to defeat the eligibility criteria fixed under the appointment notification. In the event of availability of vacancy under OBC category, then alone the petitioner would get age relaxation under



W.P.No.9135 of 2021

the relevant Rules and not by grant of relaxation of the age. Relaxation of age in violation of the Rules cannot be claimed as an absolute right in the matter of selection and appointment.

7. In view of the above legal position, the claim set out by the petitioner was rightly found to be unacceptable by the Central Administrative Tribunal.

8. Accordingly, the impugned order made in OA / 310 /01639 /2014 dated 06.12.2018 is confirmed and the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions, if any, are closed.

[S.M.S., J.]

[M.J.R., J.]

06.12.2024

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



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To

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W.P.No.9135 of 2021

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2/2