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W.P. No. 7916 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM :

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.7916 of 2015

R. Sheyamalagowri

... Petitioner

Vs.

1. The Employment Officer,
District Employment Exchange,
Villupuram.

2. The Tahsildar,
Tindivanam Taluk,
Tindivanam.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorarified Mandamus, calling for the concerned records relating to the order in Na.Ka.No.A6/8028/2014 dated 23.02.2015 passed by the second respondent and quash the same and consequently direct the second respondent to appoint the petitioner as Village Assistant with all consequential monetary benefits.

For Petitioner : Mr. M. Gnanasekar

For Respondents : Mr. P. Ganesan
Additional Government Pleader



ORDER

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This Writ Petition has been filed seeking for the issuance of Writ of certiorarified Mandamus, calling for the concerned records relating to the order in Na.Ka.No.A6/8028/2014 dated 23.02.2015 passed by the second respondent and quash the same and consequently direct the second respondent to appoint the petitioner as Village Assistant with all consequential monetary benefits.

2. The brief facts that are relevant for the disposal of the Writ Petition are as under:

2.1. The petitioner herein, who is physically disabled to an extent of 60%, got registered her name in the Employment Exchange and on considering the seniority of the petitioner, the petitioner was called for interview through letters dated 14.08.2012, 28.08.2012, 30.08.2013 and 12.09.2012 by the second respondent for the post of Village Assistant. However, the petitioner was not selected. Thereafter, the second respondent again called for the list of eligible candidates for being considered for appointment to the post of Village Assistant and accordingly, the first respondent forwarded the list of 35 candidates and



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the interview was scheduled to take place on 14.11.2014.

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2.2. At this stage, the petitioner approached this Court by filing W.P. No.29460/2014 contending that though the petitioner was called for interview on previous occasions for the very same post of Village Assistant, the petitioner was not called for interview that was scheduled to take place on 14.11.2014. At this stage, this Court passed an interim order dated 12.11.2014 directing the second respondent to permit the petitioner to appear for the interview and accordingly the petitioner participated in the interview. It was thereafter, the said W.P. No. 29460/2014 was disposed of on 22.01.2015, directing the second respondent to declare the result of the interview participated by the petitioner and thus closed the said Writ Petition. It was pursuant to the said order passed by this Court on 22.01.2015, the second respondent passed the impugned order rejecting the claim of the petitioner on the ground that her name was not sponsored by the Employment Exchange. It is aggrieved by the said order dated 23.02.2015, the petitioner has filed the present Writ Petition.

3. Heard Mr.M. Gnanasekar, learned counsel appearing for the petitioner and Mr.P. Ganesan, learned Additional Government Pleader



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appearing for the respondents.

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4. Filling up of any public post only through Employment Exchange was found fault with by the Hon'ble Apex Court. It was in terms of series of orders passed by the Hon'ble Apex Court, this Court having entertained W.P. No.29460/2014, directed the second respondent to permit the petitioner to appear for interview that was scheduled to take place on 14.11.2014 and accordingly the petitioner appeared for the interview along with the candidates whose names were sponsored by the Employment Exchange. When this Court, by a final order dated 22.01.2015, directed the second respondent to publish the result of the interview appeared by the petitioner, the claim of the petitioner was rejected on the ground that her name was not sponsored by the Employment Exchange. Once this Court directed the second respondent to consider the claim of the petitioner and allow her to participate in the interview, the action of the respondent in rejecting the claim of the petitioner on the ground that her name was not sponsored by the Employment Exchange is totally absurd. Such an action of the second respondent in a way tantamount to deliberate violation of the order passed by this Court.



4.1. In the counter affidavit filed by the second respondent, while reiterating the reason assigned in the impugned order, it is further stated that out of the 10 posts of Village Assistant notified to the Employment Exchange, 3 posts were earmarked for filling up by way of compassionate appointment and in respect of 7 vacancies, the names were called from the Employment Exchange in the ratio 1:5 and interviews were accordingly scheduled to take place on 14.11.2014. As the name of the petitioner was not sponsored by the Employment Exchange, the petitioner was not called for interview.

4.2. Be that as it may, once this Court directed the second respondent to allow the petitioner to participate in the interview process, it is obligatory on the part of the second respondent to prepare the relative merit list of the candidates who appeared for interview and then, select the candidates. No doubt, participation of the petitioner in the interview and subsequent selection or non selection of the petitioner are always subject to the result of W.P. No.29460/2014 which was pending by then. Except stating that the name of the petitioner was not sponsored by the Employment Exchange and the selection process in respect of 7 posts of Village Assistant has been conducted in terms of G.O. No.155, Revenue



Department, dated 26.03.2010, there is no other particular furnished in the counter affidavit.

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4.3. In those circumstances, this Court directed the second respondent to submit the entire records pertaining to the selection process in respect of 7 posts. Accordingly, the original records are placed before this Court.

4.4. This Court permitted the counsel for the petitioner as well as the Additional Government Pleader to verify the records and to inform this Court as to why the petitioner was not selected. On perusing the records, the counsels on either side submitted that the claim of the petitioner was rejected solely on the ground that her name was not sponsored by the Employment Exchange. It is also stated that there is no relative merit list drawn among the candidates who participated in the recruitment process for the 7 posts of Village Assistant. In the absence of any statement prepared by the second respondent comparing the merit of the candidates who appeared for interview, it is not understood on what basis the second respondent has selected the candidates for appointing them in the 7 posts of Village Assistant. As already observed, once there is a direction given by



this Court to permit the petitioner to participate in the interview process, there is no justification for the second respondent to reject the claim of the petitioner on the ground that her name was not sponsored by the Employment Exchange.

4.5. From a perusal of the counter affidavit, it is noticed that the second respondent claimed to have filled up all the 7 vacancies strictly in terms of the procedure specified in G.O. No.155, Revenue Department dated 26.03.2010 by duly following the communal rotation and while calling for the list of eligible candidates from the District Employment Exchange and the name of the petitioner was not sponsored. The further contention is that the entire selection process has taken place strictly in accordance with G.O. 521, Revenue Department, dated 17.06.1998, read with G.O. No.155, Revenue Department dated 26.03.2010. If that be the case, the respondent ought to have given sufficient reasons for rejecting the candidature of the petitioner pursuant to the performance of the petitioner in the interview that took place on 14.11.2014. But neither the impugned order nor the counter affidavit refers to any such sustainable reason except stating that the claim of the petitioner was rejected on the ground that her name was not sponsored by the Employment Exchange.



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5. As the sole reason assigned in the impugned order is wholly unsustainable, this Court is of the considered view that it is a fit case where the impugned order is liable to be quashed and accordingly, the same is quashed. The second respondent is further directed to reconsider the claim of the petitioner for being appointed to the post of Village Assistant in any of the existing or future vacancy in case the petitioner is found fit and qualified for being appointed in the post of Village Assistant and in case if any candidate falling into the same social and physical status of the petitioner was appointed to the post of Village Assistant, the second respondent shall take necessary steps for appointing the petitioner to the post of Village Assistant as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is disposed of and the connected miscellaneous petitions if any shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
bga



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To:

1. The Employment Officer,
District Employment Exchange,
Villupuram.
2. The Tahsildar
Tindivanam Taluk,
Tindivanam



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MUMMINENI SUDHEER KUMAR,J.

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