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W.P.No.11530 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 11530 of 2024
and
W.M.P.Nos. 12628 & 12630 of 2024

N. Sekar

.... Petitioner

Versus

The Managing Director,
Tamil Nadu Adi Dravidar Housing
and Development Corporation,
No.31, Cenotoph Road,
2nd Lane, Teynampet,
Chennai - 18.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for records relating to the order of the respondent made in Letter No.A3/113170/2023 dated 04.04.2024, to quash the same and to consequently to forthwith declare the petitioner as Approved Probationer as per Section 32 (2) of Tamil Nadu Government Servant (Condition service and of Service) Act, 2016 in the post of Driver with all consequential other benefits arising thereto.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.M.Mathiyazhagan



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ORDER

This Writ Petition has been filed challenging the order passed by the respondent dated 04.04.2024, thereby rejected the request made by the petitioner seeking declaration of the petitioner as approved probationer.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner is qualified with 10th Standard and he belongs to Scheduled Caste Arunthathiyar community. While being so, the respondent recruited the petitioner to the post of Driver on daily wage basis on 13.11.2014. Thereafter, the petitioner was permitted to work as Driver on temporary basis in the time scale of pay with all conditions of service. After completion of his probationary period, his probation was not declared. Therefore, the petitioner submitted a representation and the same was not considered by the respondent and also passed resolution.

4. As per the resolution, the respondent recommended the case of the petitioner for declaration of his probation. However, it was



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not accepted by the Government and as such the request made by the petitioner was rejected by the respondent, by its communication dated 04.04.2024 on the ground that the petitioner was over aged at the time of his appointment as per Section 20(8)(ii) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

5. A perusal of the counter filed by the respondent and the submissions of the learned counsel appearing for the respondent reveals that the petitioner was appointed as Driver in the regular time scale of pay and at the time of his appointment, he was aged about 41 years and 4 months. Therefore, he was barred by age. However, on humanitarian ground, the appointment of the petitioner was placed in the Board meeting and was submitted to the Government. However, the Government rejected the proposal of the petitioner sent by the respondent on the ground that the petitioner was barred by age at the time of his appointment. The maximum age limit prescribed in the Special Rules shall not apply for direct recruitment under the special category of appointment, viz., 5 years increased for SC/ST candidates. Even then, the petitioner crossed the age of 40 years.

6. Admittedly, the petitioner was appointed in regular time scale of pay on 21.07.2015. For the past nine years he has continued as



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Driver under the respondent, till today. Though the respondent sought for age relaxation, it was not accepted by the Government on the ground that the Rules doesn't permit it. Further, admittedly there is no Rule or Regulation for the respondent in respect of the age.

7. In view of the facts and circumstances of the case, the respondent is directed to ask for ratification, by relaxing the age of the petitioner, to approve his probation to the Government within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the Authority concerned is directed to consider the case of the petitioner and pass appropriate orders within a period of four weeks thereafter.

8. With the above direction, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

No costs.

31.07.2024

Internet : Yes
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

The Managing Director,



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Tamil Nadu Adi Dravidar Housing
and Development Corporation,
No.31, Cenotoph Road,
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G.K.ILANTHIRAIYAN, J.

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