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W.P.No.26247 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26247 of 2021

and

W.M.P.No.27698 of 2021

A.Arumugam

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Villupuram, Villupuram District.

2. The Special Officer -cum- Executive Officer,
Marakkanam Town Panchayat and
Kootakuppam Town Panchayat,
Marakkanam Taluk, Villupuram District.

3. The Executive Engineer,
Marakkanam Town Panchayat,
Marakkanam Taluk,
Villupuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider and dispose the petitioner's application dated 04.09.2021 so as to provide employment to the petitioner as office assistant in the Town Panchayat of Marakkanam under the Rights of persons with Disabilities Act, 2016 within



WEB COPY

W.P.No.26247 of



the time frame to be fixed by this Honourable Court.

For Petitioner : S.Seenuvasan

For R1 : Mrs.E.Ranganayaki,
Additional Government Pleader

For R2 & R3 : Mr.M.S.Premkumar,
Government Advocate

ORDER

The respondents issued a notification calling for applications to the posts of 'Office Assistant' under General-Turn – Non-priority category and also for Cleanliness Worker under Backward Class Muslim category in Marakkanam Town Panchayat, Villupuram District on 23.08.2021.

2. The petitioner herein has submitted an application in response to the said notification claiming reservation under physically-disabled category. As on the date of submitting such application by the petitioner, he was aged about 44 years. The upper age limit for the post of 'Office Assistant' is 30 years. As the petitioner was not called for interview and certain other persons were selected to the said post, the petitioner approached this Court by filing the present Writ Petition contending that the respondents have



conducted interviews discretely to select the persons of their choice and discriminated the petitioner.

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3. In response to the notice issued by this Court, the respondent no.3 filed counter-affidavit stating that the petitioner was aged 44 years as on the date of submission of application and though the petitioner claimed to be a physically-disabled candidate with 60% disability, the petitioner has not enclosed any such certificate in proof of the disability of the petitioner and therefore, the petitioner was considered as over-aged and he was not called for interview.

4. The respondents have also placed before this Court a copy of the application submitted by the petitioner and on perusal of the same, it is noticed that the concerned authorities have made an endorsement in the said application that the physical-disability certificate is not enclosed by the petitioner.

5. Though it is contended by learned counsel for the petitioner that the



petitioner has duly enclosed the physical-disability certificate along with his application, there is no material placed before this Court to show that the petitioner has submitted any such certificate along with his application.

6. As seen from the counter-affidavit, 250 applications have been received for the posts of Office Assistant and 20 applications were received in respect of Cleanliness Worker and out of them, 93 candidates have been called for interview and only 61 candidates appeared for interview and the respondents have selected one M/s.Salimabee, who was having physical disability of 75% and who was also working on temporary basis in the same office since 2014 onwards.

7. There is no allegation of *malafides* attributed against the respondents by the petitioner. In the absence of any *malafides* attributed to the respondents, this Court is unable to see any oblique motive for the respondents to disqualify the petitioner on the ground that the petitioner has not enclosed the physical-disability certificate, if the petitioner has in-fact enclosed any such certificate.



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8. In the absence of any proof of the petitioner submitting such certificate of physical-disability, this Court is not in a position to decide the factual dispute in order to arrive at a conclusion. Further, the candidate who was selected under physically-disabled category is not impleaded as party respondent, though the same was made known to the petitioner through counter-affidavit filed by the respondent no.3.

9. In the light of the above, this Court does not find any merit in the Writ Petition and the same is accordingly dismissed. However, it is made clear that in case if the petitioner intends to challenge the appointment of one M/s.Salimabee, it is open for the petitioner to challenge the same by way of an independent Writ Petition. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

11.06.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To



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MUMMINENI SUDHEER KUMAR, J.

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