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W.P.Nos.2551 of 2017 and 41125 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.Nos.2551 of 2017 and 41125 of 2016
and WMP.Nos.2513, 2514 of 2017 and 35116 of 2016

W.P.No.2551 of 2017

R.Kannan

... Petitioner

Vs.

1.The District Collector,
Villupuram District.

2.The Thasildar,
Melmallaynur Taluk,
Melmallaynur.

3.K.Parameshwari

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the order passed by the 2nd respondent in Na.Ka.A3/1352/2016 dated 24.11.2016 and to quash the selection of the 3rd respondent to the post of village Assistant to the 16 vacant post in Madurangatham Taluk, Kancheepuram District as that the selection based on the interview, having the residence of the candidature as a priority of selection, non constitution of the selection committee, criteria of selection and consequently direct the 2nd respondent to select and appoint the petitioner to the vacant post of the Village Assistant in the Madurangatham



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Taluk, Kancheepuram District.

W.P.No.41125 of 2016

R.Kannan

... Petitioner

Vs.

1.The District Collector,
Villupuram District.

2.The Thasildar,
Melmallaynur Taluk,
Melmallaynur.

3.K.Parameshwari

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare that the procedure of fixing the place of residence as a sole eligible criteria and adopted by the Tahsildar, Melmalanur Taluk to the post of “Village Assistant” is against the article 14, 15 and 16 of the Constitution of India and the proposed selection of the 3rd respondent alone is qualified for the selection to the post of Village Assistant Nemili Village taking note of the distance of her residence Devanur Village is also bad in eye of law and consequently to declare that the 2nd respondent to select and appoint the petitioner taking note of his excellence and better priority being found by the 2nd respondent in his recommendation dated 14.09.2016 on the head of employment exchange seniority, age & knowledge to read and write Tamil.

For Petitioner : Mr.R.Gokulnath for
(in both W.P.Nos.) A.Damodaran

For R1 & R2 : Mr.R.Kumaravel
(in both W.P.Nos.) Additional Government Pleader



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For R3 : No appearance
(in both W.P.Nos.)

* * * * *

COMMON ORDER

W.P.No.41125 of 2016 is filed for a writ of declaration declaring the procedure of fixing the place of residence as a sole eligibility criteria for selection to the post of “Village Assistant” as being violative of articles 14, 15 and 16 of the Constitution of India, and the proposed selection of the 3rd respondent on the basis of her residence as bad in eye of law and consequently to direct the 2nd respondent to select and appoint the petitioner taking note of his excellence and the recommendation of the 2nd respondent dated 14.09.2016.

2. W.P.No.2551 of 2017 is filed for a writ of certiorarified mandamus, to quash the order dated 24.11.2016, selecting the 3rd respondent to the post of Village Assistant as illegal.

3. The petitioner is a native of Unnamanathal Village which is located within 5 Kms from the Nemili Village. The petitioner was unsuccessful in his matric examination and he dropped out of school. The petitioner is a polio attacked ortho-disabled person with 60% disablement of his right leg. The



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petitioner belongs to Scheduled Caste community and he registered with the

District Employment Exchange on 19.01.2001, vide registration No.VPD

2001M00000923. The respondents called for applications to the post of

Village Assistant in Kooduvampoondi, Kammanthangal, Kodampadi,

Marakanam, Melkaranai, Melnemili, Naaranamangalam from eligible persons

vide paper publication in Tamil Newspaper on 26.07.2016. The petitioner was

sponsored through employment exchange and he was called for interview for

the said post by the second respondent vide the proceedings No.A.3-1352-2016

dated 14.09.2016. The petitioner attended the interview and produced the

relevant certificates. The second respondent evaluated the candidates and sent

his recommendation, recommending the 3rd respondent for the post on the basis

of the proximity of her residence to the place of posting. Aggrieved by the

selection of the 3rd respondent on the basis of residence alone, the petitioner

filed the above writ petitions for the aforesaid reliefs.

4.The respondents filed a detailed counter, stating that vide publicity was made in Tamil Newspaper on 26.07.2016, calling for applications for the post of Village Assistant in the villages stated therein from eligible candidates, and apart from that, a request was also made to the District Employment Officer, Villupuram, to sponsor the names of eligible candidates for the said posts.



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According to the respondent, 169 applications were received, which included the application of the petitioner and 30 other eligible candidates from the District Employment Officer, Villupuram. Out of the 199 applications, 128 applicants were found eligible and out of the 128 applicant's, 108 candidates attended the interview conducted on 14.09.2016, including the petitioner for the said post in Melnemili Village. According to the respondents, the petitioner belonged to Unnamanathal Village of Avalurpettai Firka of Melmalayanur Taluk, whereas, the Village viz, Melnemili is situated in Sathampadi Firka of Melmalayanur Taluk. Further the VA post of Melnemili Village, was to be filled up as per Communal Rotation and priority category (i.e.) SC – general – Priority. Five persons belonging to Scheduled Caste, male and female and disabled persons (priority), were found eligible. As the distance of the petitioner's residence in Melnemili village, which was in different Firka was far away from the recruitment village, the petitioner was found unfit for selection. The respondents relying on G.O.Ms.No.429, Revenue (Ser 8(1) Department dated 08.08.2007, and the Government Letter No.Ms.No.631 Revenue Department dated 07.11.2008, submitted that as the 3rd respondent satisfied the residence criteria under the aforesaid G.O. and the letter, the 3rd respondent was found eligible and hence selected. The respondents therefore stated that the rejection of the petitioner's candidature could not be faulted and hence, the writ



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petitions deserved to be dismissed.

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5.The learned counsel for the petitioner submitted that fixing the place of residence as the sole eligibility criteria for selection to the post was bad in law as it violated the constitutional provisions of Articles 14, 15 & 16. The learned counsel further submitted that if the residence criteria was not made the sole criteria for selection, the petitioner would have been selected as he was better qualified for the post. The learned counsel therefore submitted that the selection of the third respondent deserved to be set aside.

6.The learned Government Advocate for the respondents on the other hand submitted that the petitioner did not challenge G.O.Ms.No.429, Revenue (Ser 8(1) Department, dated 08.08.2007, which gave justifiable reasons for making residence the eligibility criteria for selection to the post. The learned Government Advocate further submitted that apart from the residence criteria the advertisement calling for applications to the post of "Village Assistant" also provided for other eligibility criteria and therefore the contention that residence was made the sole eligibility criteria for selection was baseless. The learned Government Advocate therefore submitted that the writ petitions were filed on misconception of law and facts, hence deserved to be dismissed.



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7.I heard the learned counsel for the petitioner and the learned Government Advocate and I have perused the materials placed on record.

8.The advertisement calling for applications for the post of Village Assistants provided for the following eligibility criteria.

- 1) Pass in 5th standard,
- 2) Knowing to ride bi-cycle,
- 3) Knowing to read and write, and
- 4) Residence within 5 Km from the recruitment Village.

9.It is seen that in G.O.Ms.No.429 dated 08.08.2007 in paragraph No.4 it is stated as follows:

“4.In the letter 4th read above, the Special Commissioner and Commissioner of Revenue Administration has stated that the post of Village Assistant should be recruited from among the persons who are resident of same village and also know cycle riding. The purpose of selecting local people for the job is that they would be available for officials as well as for the public round the clock and very familiar with the public as well as local issues including land particulars. At the time of any emergencies of



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Natural Calamities, their services will be very vital in Disaster Management. That is why the Government are very particular about recruiting the Village Assistants belonging to the same Revenue Villages. Further, he has also stated that if we follow 1:1 ratio in getting the candidates sponsored from the Employment Exchange this will delay recruitment process unnecessarily. On the other hand if 1:20 ratio is adopted this problem could easily be sorted out.”

10.From a reading of the above it is clear that the reason for making residence as one of the criteria for selection is that the Village Assistant should be available for serving the public round the clock. A local person would be familiar with the public in the area and would be in a better position to address the local issues including the land particulars. Even at the time of emergency or natural calamity, his services would be readily available in mitigating the same. It is further seen that in the Government Letter dated 07.11.2008, of the Principal Secretary to Government, in paragraph No.3, it was stated as follows:

“3.In this connection the Government have examined the request of the Special Commissioner and Commissioner of Revenue Administration in detail and issue the instructions as follows:

(i) The ration of 1:5 has been decided in G.O.(Ms).No.429, Revenue Department, dated 08.08.2007



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for sponsor of candidates from employment exchange. This G.O. will prevail.

(ii) Regarding the minimum education qualification of V Std passed for the post of Village Assistant, a maximum be filed i.e. 10th fail as asked by the Special Commissioner and Commissioner of Revenue Administration.

(iii) If no eligible hands are available in the concerned village, then the least distant adjoining village may be selected for recruiting the Village Assistants. If more than one village is having the same distance, then the candidates may be called for from all such least distant villages and so on and so forth. If there is no candidate still from all these adjoining village then alone the candidates may be called for from the entire Firka and later if necessary from the entire Taluk.

(iv) Regarding the age limit of above 35 years, it has been already clarified in Government letter No.261/Ser-8(1)/07-1, Revenue, dated 23.02.2007 i.e. the orders issued in G.O.(Ms).No.98, Personnel and Administrative Reforms Department, dated 17.07.2006 will automatically made applicable for recruitment the Village Assistant post.”

11.Admittedly, the petitioner does not belong to Sathampadi Firka, in



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which the recruitment village of Melnemili, is situated. The petitioner belongs to Avalurpettai Firka, which is a different Firka from the recruitment Firka.

Therefore, as per G.O.Ms.No.429 dated 08.08.2007, r/w. Government Letter dated 07.11.2008, of the Principal Secretary to Government, the petitioner who did not belong to the Sathampadi Firka in which the recruitment Firka, is situate was not eligible. I therefore, find no infirmity in the impugned order dated 24.11.2016. It is pertinent to note here that the petitioner for reasons best known to him has not challenged, G.O (MS).No. 429 dated 08.08.2007, and the Government Letter dated 07.11.2008, of the Principal Secretary to Government, and therefore the prayer for declaration that the residence criteria should be declared as violative of Articles 14, 15 and 16 of the Constitution of India cannot be entertained. Even otherwise, from the facts narrated above, it is clear that residence was not the sole criteria for selection. Therefore, the contention that residence was made the sole criteria for selection is misconceived and untenable. Hence, I find no merits in both the writ petitions and the same are dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

22.10.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-speaking order



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To

- 1.The District Collector,
Villupuram District.
- 2.The Thasildar,
Melmallaynur Taluk,
Melmallaynur.



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N.MALA,J.

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