



W.A(MD)No.413 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)No.413 of 2024

and

C.M.P(MD)No.3560 of 2024

- 1.The State rep. by
The Additional Chief Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Director,
Adi Dravidar and Tribal Welfare Directorate,
Chepauk, Chennai – 600 005.
- 3.The District Collector,
Collectorate, Nagercoil,
Kanyakumari District.
- 4.The District Adi Dravidar and Tribal Welfare Officer,
District Collector Office,
Nagercoil, Kanyakumari District.
- 4.The Special Tahsildar,
Adi Dravidar Tribal Welfare,
Padmanabhapuram, Kanyakumari District.
- 6.The Head Master,
Government Tribal Residential High School,
Manalodai, Kanyakumari District. ... Appellants/Respondents

Vs.



W.A(MD)No.413 of 2024

I.Raja

... Respondents/writ petitioners

PRAYER : Appeal filed under Clause 15 of the Letters Patent Act, against the order made in W.P(MD)No.1224 of 2023, dated 30.06.2023.

For Appellants :Mr.N.Satheesh Kumar,
Additional Government Pleader

For Respondent :Mr.N.Dilip Kumar

JUDGMENT

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J.]

This writ appeal has been filed by the State, challenging the order passed by the Writ Court, dated 30.06.2023 made in W.P(MD)No.1224 of 2023.

2. Mr.N.Dilip Kumar, learned counsel takes notice for the respondent.

3. By consent, the main writ appeal itself is taken up for final disposal.

4. According to the appellants, the respondent was appointed as a Cook in Government Tribal Residential Middle School, Manolodai, Kanyakumari District and he belongs to Scheduled Caste Community. Under Section 20(8)(ii) of the Tamil Nadu Government Servants(Conditions



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of Service) Act, 2016, the maximum age limit for Scheduled Caste Community candidates is 35 years. At the time of submitting the application, the petitioner was aged 38 years and therefore, the petitioner was terminated from service on 29.12.2022 on the ground of overage. Challenging the same, the first respondent/writ petitioner has filed the writ petition. The Writ Court allowed the said writ petition and ordered to reinstate the respondent in service forthwith. Challenging the same, the appellants have filed this writ appeal.

5. The learned Additional Government Pleader appearing for the appellants has produced a decision of a Division Bench of this Court in **W.A(MD)No.416 of 2023 etc., batch dated 29.11.2023**, wherein in similar issue, the Division Bench has elaborately discussed the issue and held that the person concerned was not entitled for appointment on the ground of overage and the said decision is squarely applicable to the present case.

6. We have heard the submissions made on either side and perused the materials placed before us.

7. The point arises for consideration is that the issue raised in this writ appeal is squarely covered by the decision of the Hon'ble Division Bench



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of this Court in W.A(MD)No.416 of 2023 etc., batch, dated 29.11.2023, or not. Relevant portion of the said decision is extracted hereunder:

“6.16. *Concession of age limit of five years granted to SC/ST candidates for appointment cannot be further extended to another five years by the Court based on the General Rules, which is otherwise not applicable for appointment to the post of “Cook” under the Tamil Nadu Basic Service.*

7. Conclusion:

7.1. *In view of the discussions made in the aforementioned paragraphs, we are not inclined to agree with the view taken by the learned Single Judge that the maximum age limit of 35 years contemplated under the Special Rules for Tamil Nadu Basic Service and the recruitment notification is to be further extended for further five years upto 40 years for the candidates belonging to Scheduled Caste or Scheduled Tribe community. Such extension of five years of age limit is beyond the scope of the power of judicial review and the Courts, by exercising the powers, cannot extend the age limit fixed by the employer under the Rules in force. Once the Special Rules are made applicable to a particular category for appointment and five years of extension has already been granted to the candidates belonging to Scheduled Case or Scheduled Tribe community, application of General Rules would not arise and therefore, the orders of the learned Single Judge to that extent is to be set aside.”*



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8. In the present case, the respondent was overaged ie., 38 years at the time of submitting the application and therefore, the aforesaid decision in W.A(MD)No.416 of 2023 etc., batch, dated 29.11.2023, is squarely applicable to the facts of the case and therefore, the order passed by the learned Single Judge is liable to be set aside.

9. In the result, the writ appeal is allowed and the order of the learned Single Judge, dated 30.06.2023 made in W.P(MD)No.1224 of 2023, is hereby set aside. No Costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]

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Neutral Citation: Yes / No

Index : Yes / No

PM



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