



W.P.(MD) No.7594 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.7594 of 2017
and
W.M.P.(MD) No.5931 of 2017

B.Palkannan

... Petitioner

-vs-

1.The Secretary to Government
Higher Education Department
Fort St.George, Chennai-9

2.The Director of School Education
DPI Complex, Chennai-6

3.The Chief Educational Officer
Theni

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration declaring the selection list for the post of Lab Assistant published in Theni District in respect of Serial No.41 as null and void and further direct the respondents 1 to 3 to select the petitioner and appoint him as Lab Assistant in Theni District.



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For Petitioner : Mr.PT.S.Narendravasan

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned selection list excluding the name of the petitioner from being selected as Lab Assistant in Theni District.

2. According to the petitioner, his name did find a place in Serial No.41 of the earlier selection list for the post of Lab Assistant in Theni District. However, according to the petitioner, the third respondent manipulated the said selection list and the Serial No.41 was altered and in place of petitioner's name, the name of another person was disclosed, though the said person is not eligible to be selected to the post of Lab Assistant. According to the petitioner, the third respondent has committed fraud upon the petitioner by altering the selection list by including the name of one S.Ramamoorthy instead of the petitioner.



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3. Pursuant to a notification issued by the respondents for selecting Lab Assistants in Theni District, the petitioner participated in the said selection process. According to the petitioner, since he was selected for the said post, he was called for certificate verification. But, thereafter, the third respondent had manipulated and excluded him from the selection list and in his place, another person was appointed. The petitioner claims that being the son of ex-serviceman, as per the priority category, he ought to have been selected to the post of Lab Assistant, as he has secured more marks than the other persons belonging to the very same category. Aggrieved by the impugned selection list excluding his name, the petitioner has filed this writ petition.

4. A counter affidavit has been filed by the third respondent denying the contentions of the petitioner and he would categorically contend that only in accordance with G.O.Ms.No.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976, the selection to the post of Lab Assistant was finalized and the impugned selection list was released.



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5. Learned counsel for the petitioner drew the attention of this Court to the impugned selection list and would submit that the petitioner having secured higher marks and falling within the priority category and belonging to Scheduled Caste Community ought to have been selected, as the other candidates belonging to the same category have secured lesser marks.

6. However, on the other hand, learned Government Advocate appearing for the respondents would submit that the petitioner cannot compare himself with the other candidates, namely, S.Ramamoorthy and N.Kannan, who are ex-servicemen, whereas the petitioner is only a son of ex-serviceman. He would submit that the priority category is given only for ex-servicemen and not for the children of ex-servicemen.

7. Learned Government Advocate appearing for the respondents also drew the attention of this Court to G.O.Ms.No.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976, and would submit that as per the said Government Order, the priority for employment through employment exchanges is only for the disabled ex-



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servicemen and not for the children of ex-servicemen. He also drew the attention of this Court to the impugned selection list as well as the application submitted by the candidates, who have been compared by the petitioner, namely, S.Ramamoorthy and R.Ravichandran and would submit that those candidates were ex-servicemen themselves, whereas the petitioner is a son of ex-serviceman. Being ex-servicemen, the said S.Ramamoorthy and R.Ravichandran were duly selected to the post of Lab Assistant and the petitioner was excluded from the selection list as he had not secured the cut off marks applicable for all the four categories, even though he may be a Scheduled Caste candidate.

8. As seen from G.O.Ms.No.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976, which is applicable to the subject employment, which is the subject matter of this writ petition, it is clear that the priority for employment through employment exchanges is given only for the disabled ex-servicemen and not for the children of the disabled ex-servicemen. It has also been made clear in the said Government Order that only the ex-servicemen, wives, sons and unmarried daughters of serving military personnel are given priority. “Ex-Serviceman” has also been defined



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in the said Government Order and it has been made clear that “Ex-Serviceman” means a person, who after having served for any period of time in the Defence Service (Indian Army, Indian Air Force, Indian Navy, the Auxiliary Forces of India and the Boy's Companies) has been discharged (except that one who has been dismissed by a competent authority or one who has been discharged on account of mis-conduct or inefficiency before completing six months' service shall not be treated as ex-serviceman.

9. Admittedly, the petitioner does not fall under any of the aforementioned categories and does not come within the definition of “Ex-Serviceman” as defined in the Government Order, namely, G.O.Ms.No.188, Personnel and Administrative Reforms (Personnel-P) Department, dated 28.12.1976, referred to supra. The applications submitted by the candidates, whom the petitioner has compared in this writ petition, namely, S.Ramamoorthy and R.Ravichandran, also make it clear that they are ex-servicemen and they are not the children of ex-servicemen. Only by following the procedure as contemplated under the recruitment notification, the respondents have conducted the selection process and have selected the candidates as per the impugned selection list. This Court does not find any



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infirmity in the same and there is no merit in this writ petition.

10. Accordingly, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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ABDUL QUDDHOSE, J.

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