



W.P(MD)No.26341 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26341 of 2023

S.Vijayakumar

... Petitioner

Vs.

The Deputy Secretary,
Department of Legal Affairs
Ministry of Law & Justice,
Government of India Notary Cell,
4th Floor Middle Wing,
Janpath Bhavan,
New Delhi – 110 001.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in F.No.N-14011/6/2019-NC dated 23.06.2023 of the Respondent and quash the same as illegal and disobeyed the Order passed by the Honble Division Bench Madurai in W.A(MD)No.420 of 2021 dated 15.04.2021, to consider the application of the petitioner for the appointment of Notary and



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consequently direct the respondent to appoint the petitioner Vide F.No.N-11013/2091/2018-NC/interview Sr.No.850 as Notary for entire Tamil Nadu.

For Petitioner : Mr.S.Vijayakumar
Party-in-person

For Respondent : Mr.K.Govindarajan
Deputy Solicitor General of India

ORDER

Heard both sides.

2.The writ petitioner is a practising lawyer. He applied in response to the notification issued by the respondent calling for applications for being appointed as Central Government Notary. The petitioner was not successful. He therefore filed W.P(MD)No.6192 of 2019 for directing the respondents herein to appoint him as Notary for the entire Tamil Nadu. The writ petition was taken up along with few other writ petitions filed by physically challenged candidates. The writ petitions were disposed of on 15.11.2019. While the writ petitions filed by the others were disposed of with certain directions, W.P(MD)No.6192 of 2019



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filed by the petitioner was dismissed. Challenging the same, the petitioner filed W.A(MD)No.420 of 2021. It was disposed of on 15.04.2021 in the following terms:

“6. The Central Government preferred a writ appeal against the said order in W.A.(MD) No.1260 of 2014 and it was disposed of by Judgment dated 12.01.2016 by permitting the appellant before us to apply afresh to the next selection and directing the Central Government to consider the same in accordance with law. This is how the second application has been filed by the appellant on 02.05.2016. Considering the above factors and also the fact that the appellant before us is not aware as to the reasons for his non-selection, we are inclined to issue appropriate directions to the respondents to consider his case on merits and in accordance with law.

7. In the light of the above, the respondents are directed to consider the appellant's application and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Judgment. It is made clear that this Judgment is delivered considering the peculiar facts and circumstances of the case and it should not be treated as a precedent.”



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Contending that the direction given by the Hon'ble Division Bench was not complied with, the petitioner filed Cont.P(MD)No.758 of 2023. When the matter was taken up for hearing, the learned Additional Solicitor General of India produced copy of the order dated 13.09.2023 rejecting the petitioner's request. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The petitioners in W.P(MD)No.4692 of 2019 etc were also not selected by the interview Board. But they have been issued with the orders appointing them as Notaries. Therefore, the petitioner's non-selection by the interview board cannot be put against him. He called upon this Court to set aside the impugned order. He complains that the respondent has clearly breached the equality principle enshrined in Article 14 of the Constitution of India. He called upon this Court to set aside the impugned order and grant relief as prayed for.



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4.The learned Deputy Solicitor General of India appearing for the respondent submitted that the petitioner has no legal right as such and that the writ petition deserves to be dismissed.

5.I carefully considered the rival contentions and went through the materials on record.

6.The petitioner appeared before the interview board on 26.09.2018 at Chennai. Since the petitioner was not selected, he filed W.P(MD)No.6192 of 2019. It is not in dispute that the said writ petition was dismissed by a learned Judge of this Court vide order dated 15.11.2019. Challenging the same, the petitioner filed W.A(MD)No.420 of 2021. Direction given by the Hon'ble Division Bench had already been extracted. It is relevant to note that the Hon'ble Division Bench was primarily swayed by the fact that the petitioner did not know the reason as to why he had not been selected. That is why direction was given to the respondent to consider the petitioner's application and pass an appropriate order. Pursuant thereto, the impugned order dated 23.09.2023



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came to be passed informing the petitioner that his request for being appointed as notary is not legally feasible.

7.Rule 7(A) of the Notary Rules, 1956 reads as follows:

“7A. Constitution of the Interview Board.—(1) If the appropriate Government allows that the applicant may be asked to appear before the Interview Board, the competent authority, shall inform the applicant to appear before the Interview Board, on the date, time and place fixed, to judge the competency of the applicant for being appointed as a Notary. The Interview Board shall submit its recommendations to the appropriate Government.

(2) For the said purpose, one or more Interview Boards shall be constituted by the appropriate Government from amongst its officers dealing with legal matters and the Chairperson of every Interview Board shall be an officer not below the rank of Joint Secretary or Law Officer of that Government:

[Provided that the appropriate Government may dispense with the condition of holding of interviews for which reasons are to be recorded in writing.]



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Rule 8 deals with the appointment of a Notary and Rule 8(1) reads as follows:

“8. Appointment of a notary.- (1) On receipt of the recommendations of the interview board, the appropriate Government shall consider the recommendation and shall

(a) allow the application in respect of the whole of the area to which it relates; or

(b) allow the application in respect of any part of the area to which it relates; or

(c) reject the application,

and shall also make such orders as the Government thinks fit regarding the persons by whom the whole or any part of the cost of the application including the cost of hearing, if any, shall be borne.”

It is definitely open to the respondent herein to take into account the non-selection by the interview Board. In this case, I am satisfied that the petitioner's application was considered afresh by the respondent. It is not as if only in view of non-selection by the interview board, his request came to be rejected. It is true that few others individuals who were also not selected by the interview board were appointed as Notary by the respondent. But then those individuals were suffered from physical disabilities and they had obtained directions in their favour at the hands



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of a learned Single Judge who however dismissed the petitioner's writ petition. The order passed by the learned single Judge was also confirmed by the Hon'ble Division Bench in respect of those candidates.

8.The appointments in the case of those individuals came to be made because the respondent had originally failed to provide reservation for the physically challenged candidates. And that is how notwithstanding with their non selection, they came to be appointed as Notaries. The petitioner cannot seeks parity. Only equals can be treated alike. The petitioner is on par with those candidates only in respect of his non selection by the interview board. But in material aspects, the petitioner's case stands in a different footing altogether. I do not find any ground to interfere with the impugned order.

9.This writ petition is dismissed. There shall be no order as to costs.

25.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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