



W.A.No.1310 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.1310 of 2023

S.Babu

... Appellant

Vs.

1.The Director of School Education,
College Road, Nungambakkam,
Chennai – 600034.

2.The Chief Educational Officer,
Villupuram, Villupuram District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.33120 of 2017 dated 23.09.2022.

For Appellant : Mr. P. Manojkumar.

For Respondents : Mr. J.C. Durairaj,
Additional Government Pleader



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J U D G M E N T
(Delivered by Dr. A.D. Maria Clete, J)

This writ appeal is directed against the order dated 23.09.2022 passed in W.P. No. 33120 of 2017, wherein the learned Single Judge dismissed the petition filed by the appellant seeking appointment under the Ex-Servicemen dependent priority category for the post of Lab Assistant under the RMSA scheme in Villupuram District.

2. The appellant is the son of an Ex-Serviceman and had applied for appointment under the priority category meant for dependents of Ex-Servicemen. His candidature was not considered under the said quota, leading to the filing of the writ petition.

3. In the writ petition, he relied upon the provisions of G.O.Ms.No.1161, Personnel and Administrative Reforms Department, dated 22.11.1984, which grants employment priority to one dependent of an Ex-Serviceman, provided that the Ex-Serviceman has not already availed the benefit. The appellant produced a



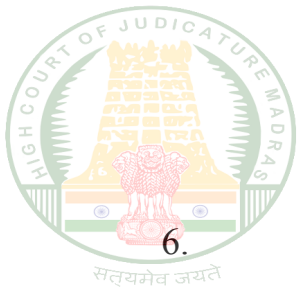
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valid dependency certificate issued by the Assistant Director of Ex-Servicemen's

Welfare, Pudukkottai District, dated 15.02.2011, certifying that the appellant is a dependent and that the Ex-Serviceman had not utilised the priority.

4. The learned Single Judge, relying on G.O.Ms.No.188 dated 28.12.1976, held that only Ex-Servicemen themselves, and not their dependents, are eligible under the Ex-Servicemen priority category. Since the appellant is the son of an Ex-Serviceman, he was found ineligible. It was also noted that by the time of consideration, vacancies had lapsed in favour of Destitute Widows (Group II(i)), a higher priority category, and that the selection was completed in 2017. Holding that there was no infirmity in the process, the writ petition was dismissed.

5. The appellant contends that the learned Single Judge failed to consider that G.O.Ms.No.188, dated 28.12.1976, was subsequently amended by G.O.Ms.No.1161, dated 22.11.1984, which extends employment priority to one dependent of an Ex-Serviceman—including a son, daughter, wife, or widow—if the Ex-Serviceman had not availed the benefit.



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6. The appellant, having secured 62 marks, higher than some selected candidates under the priority category, claims rightful eligibility under the Ex-Servicemen dependent quota. However, the writ petition was dismissed by merely accepting the counter affidavit, which stated that the vacancies had lapsed in favour of the Destitute Widow category, a higher priority category, without calling for any records to verify the same.

7. The appellant had submitted a valid dependency certificate, which remains undisputed. The denial of appointment despite full compliance with the eligibility norms is, therefore, alleged to be arbitrary and contrary to policy. It is thus urged that the learned Judge erred in dismissing the writ petition, and the appellant seeks that the impugned order be set aside and the appeal allowed.

8. Heard the parties and perused the materials available on record.

9. It is seen that G.O.Ms.No.1161 dated 22.11.1984 amended G.O.Ms.No.188 dated 28.12.1976, extending the scope of priority in employment under Group II. The Dependency Certificate dated 15.02.2011 specifically states that the appellant



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is eligible for priority under Group II in accordance with the amended G.O. The

relevant portion of G.O.Ms.No.1161 reads as follows:

“In the list of priority categories annexed to the said Government Order, for the existing item (i) under Group II, the following shall be substituted:

i) Ex-Servicemen and wives, sons and unmarried daughters of serving military personnel and one son or one daughter or wife or one dependant or the widow of Ex-servicemen, provided that the concerned Ex-servicemen themselves have not utilised the priority...”

10. Accordingly, the amendment explicitly includes the son of an Ex-Serviceman within the ambit of Group II priority, subject to the condition that the Ex-Serviceman has not already availed the benefit. The G.O. further lays down: The dependency must be certified by the Assistant Director of Ex-Servicemen's Welfare; The Ex-Serviceman must not have previously availed the benefit; The certification must be entered in the discharge certificate; The benefit continues to apply even after the death of the Ex-Serviceman; No other dependent must have



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availed the benefit earlier. The appellant's case satisfies all these criteria, as borne out by the dependency certificate produced in the writ petition.

11. It is evident that the learned Single Judge proceeded on a misapprehension of the applicable policy framework by relying on G.O.Ms.No.188 without noticing its subsequent amendment by G.O.Ms.No.1161. The denial of the appellant's claim solely on the ground that he is a son of an Ex-Serviceman, and not the Ex-Serviceman himself, is contrary to the amended position of law and the Government's own policy.

12. That said, it is also an admitted position that the selection in question was completed in 2017 and the selected candidates have since joined service. In the absence of allegations of mala fides in the selection process itself, this Court does not propose to disturb past appointments. Further, if the appellant's claim were to be accepted at this stage, it would result in the displacement of a candidate who has already been accommodated in that post. However, since the said individual



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has not been impleaded as a party to the proceedings, no adverse order can be passed affecting his rights behind his back. Nonetheless, the appellant's eligibility under the amended G.O. is clear, and the denial of consideration under the priority quota constitutes a denial of a statutory benefit. The appellant is entitled to be given priority if any future vacancies arise under the said quota, subject to compliance with procedural formalities, in view of the higher marks scored by the appellant compared to selected candidates under the priority category.

13. In view of the above, this Court passes the following orders:

- i. The order of the learned Single Judge dated 23.09.2022 in W.P. No. 33120 of 2017 is set aside to the limited extent of denying recognition of the appellant's eligibility under G.O.Ms.No.1161 dated 22.11.1984.
- ii. The prayer in the writ petition insofar as it seeks quashing of the 2017 selection list is rejected, considering the long lapse of time and the settled appointments.
- iii. The respondents are directed to treat the appellant as eligible under the Ex-Servicemen dependent priority quota, as per G.O.Ms.No.1161, and consider his candidature with due preference if any future vacancy arises subject to



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compliance with procedural formalities, in view of the higher marks scored by the appellant compared to selected candidates under the priority category.

iv. Such consideration shall be extended without insisting on reissuance of the dependency certificate, provided the one already issued remains valid and unrebutted.

14. Accordingly this Writ appeal is disposed of in the above terms and there shall be no order as to costs.

(R.S.K., J) (A.D.M.C., J)

15.04.2025

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NCC : Yes / No

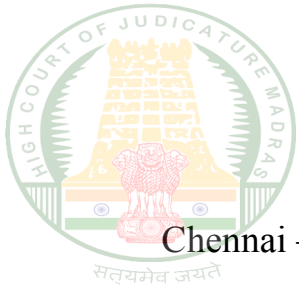
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To

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College Road, Nungambakkam,

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Chennai – 600034.

2.The Chief Educational Officer,
Villupuram, Villupuram District.

3.The Section Officer,
VR Section,
High Court of Madras,
Chennai.

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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