



W.P.No.16343 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.16343 of 2018 and
W.M.P.No.19500 of 2018

Mr.K.R.Sudhakar

... Petitioner

Vs.

1.The State of Tamil Nadu, Rep. by the
Secretary of Government,
P & AR (P) Department, Fort St.George,
Chennai 600 009.

2.The Directorate of Rural Development
& Panchayat Raj,
Panagal Maligai, 4th Floor,
Abdul Razzak Street, West Saidapet,
Chennai 600 015.

3.The District Collector,
Vellore District,
Vellore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to Na.Ka.PA6/6729/2013 dated 09.10.2017 passed by the third respondent and quash the same and thereby post the petitioner



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as Junior Assistant as per Clause 4(3) of G.O.Ms.No.43 P & AR Department, dated 15.02.1994 and as per the benefit given in G.O.Ms.No.246, P &AR (P) Department dated 29.08.2003 on par with the similarly placed candidates in a time bound period.

For Petitioner : Mr.G.Derrick Sam for
Mr.K.Mohanamurali
For Respondents : Mr.P.Ananda Kumar, GA

ORDER

This Writ Petition has been filed to call for the entire records pertaining to Na.Ka.PA6/6729/2013 dated 09.10.2017 passed by the third respondent and quash the same and thereby post the petitioner as Junior Assistant as per Clause 4(3) of G.O.Ms.No.43 P & AR Department, dated 15.02.1994 and as per the benefit given in G.O.Ms.No.246, P &AR (P) Department dated 29.08.2003 and on par with the similarly placed candidates in a time bound period.

2. Heard Mr.G.Derrick Sam, learned counsel for the petitioner, Mr.P.Ananda Kumar, learned Government Advocate for the respondents and perused the materials available on record.

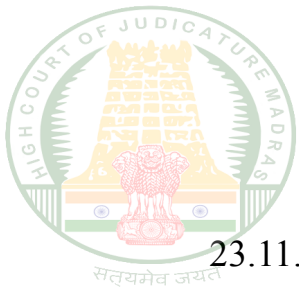


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3. The petitioner has been appointed as a driver in consequent to the order of the Hon'ble Supreme Court made in C.A.No.810 of 1998 dated 29.09.1999. Earlier, persons similar to the petitioner and who worked under the Directorate of Census for conducting census operation have filed an application before the Tamil Nadu Administrative Tribunal and the same was allowed. The order passed by the Administrative Tribunal was challenged by the State before the Hon'ble Supreme Court in C.A.No.810 of 1998 and the same was also disposed by confirming the orders of the State Administrative Tribunal. The Hon'ble Supreme Court has directed the State Government to modify the scheme and thereby accommodate the retrenched employees of the Census Department under Group – IV Services. Subsequently, a Government Order in G.O.Ms.No.209, Personnel & Administrative Reforms (P) Department dated 23.11.2001 has been passed.

4. Even though the petitioner was not a party to the said proceedings, he also got appointed as a driver by virtue of the Government Order passed in G.O.Ms.No.209, P& AR Department dated



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23.11.2001 in terms of the orders of the Hon'ble Supreme Court.

However, vide subsequent Government Order in G.O.Ms.No.246 dated 29.08.2003 only 481 retrenched employees have been treated as Group IV employees and they have been given with posting in respective Departments of the Government of Tamil Nadu.

5. For the reasons best known to the petitioner, he did not challenge the above order. Despite the petitioner was satisfied with the appointment as driver, he later claimed parity with those 510 persons who have been appointed under Group IV Services and gave a representation that he should be accommodated under Group IV services. The said representation of the petitioner was rejected on 04.10.2012 stating that the pay scale for the petitioner's post and the Junior Assistant of the Group – IV Services are one and the same and that there is no Government Order to transfer the driver to the post of Junior Assistant.

6. Subsequently, the petitioner filed a Writ Petition in W.P.No.13495 of 2013 and challenged the order dated 04.10.2012. In the



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said Writ Petition, this Court has passed the following order without going into the merits of the matter:

"In view of the above, without going into the merits and demerits of the claim of the petitioner, the respondents are directed to consider the claim of the petitioner in the light of G.O.Ms.No.43, Personnel and Administrative Records (Per.8), Department dated 15.02.1994 and pass reasoned order within a period of two months from the date of receipt of a copy of this order. While considering the claim of the petitioner, the respondents shall also take into consideration the averments made in support of the Writ Petition."

7. In pursuant to that, the representation of the petitioner was considered. However it was rejected on 09.10.2017 by citing the very same reasons for which the earlier rejection of the representation of the petitioner was made. In the order passed in W.P.No.13495 of 2013 dated 31.07.2017, a reference was made about G.O.Ms.No.43, P & AR Department dated 15.02.1994 and the Government was directed to consider the representation of the petitioner by giving him the benefit of clause 4(3) of G.O.Ms.No.43 dated 15.02.1994. Clause 4(3) of the above



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Government Order would read as follows:

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"4(3) While making such appointment, it should be ensured that the recruitment by transfer from the lower categories should not exceed 20 per cent of the vacancies in each of the categories of Junior Assistants or Junior Assistant -cum-Typists or Typists."

8. However, in the impugned order dated 09.10.2017, there is no reference about clause 4(3) of the above Government Order. But the third respondent has invoked clause 4(11) of the above Government Order and had chosen to reject the representation by citing the very same reasons stated in the earlier order dated 04.10.2012.

9. To be noted that the respondents have not challenged the order of this Court passed on 31.07.2017 in W.P.No.13495 of 2013 under which the benefit of G.O.Ms.No.43 dated 15.02.1994 has been given in terms of clause 4(3) only. Under such circumstances, rejecting the representation of the petitioner by invoking some other clause is nothing but an order passed in violation of the earlier order of this Court. The impugned order has been passed completely unmindful of the earlier



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direction given by this Court. Hence, the impugned order is liable to be set aside.

10. In the result, this Writ Petition is allowed and the impugned order passed in Na.Ka.PA6/6729/2013 dated 09.10.2017 is set aside. The third respondent is directed to accommodate the petitioner by giving him the benefit of clause 4(3) of G.O.Ms.No.43 P & AR Department, dated 15.02.1994 in the event of any vacancy is available in 20% as prescribed under Clause 4(3), if it is feasible and pass an order within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes
Speaking
Neutral Citation : Yes
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R.N.MANJULA, J.

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- 1.The Secretary of Government,
The State of Tamil Nadu,
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& Panchayat Raj,
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