



W.P.(MD)No.14334 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.14334 of 2019

and

W.M.P.(MD)No.10762 of 2019

R.Krishnasamy

... Petitioner

Vs.

The Asstt.Commissioner,
(District Revenue)
Commercial Tax Department,
Commercial Tax Complex,
Madurai Road,
Virudhunagar,
Virudhunagar District-626 001.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent's impugned notification dated 11.07.2018 and consequential notification No.Rc.No.A8/5466/2018 dated 10.07.2018 and consequential Communication Na.Ka.A1/1960/2018 dated 31.01.2019, as null and void since it violates Article 14 of Constitution of India and direct the respondent to consider the petitioner for the said post under educational qualification of 8th Std. Passed and physically disabled quota by considering the petitioner's representation dated 07.01.2019, within the period stipulated by this Court.



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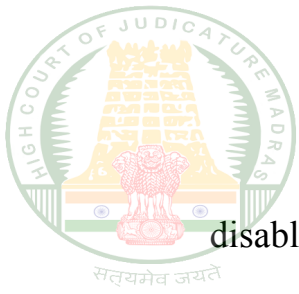
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For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

ORDER

Under assail is the notification dated 11.07.2018 issued by the first respondent and consequential communication dated 31.01.2019.

2.The case of the writ petitioner is that the petitioner is a physically disabled person with 40% disability of difficulty in right hand. He belongs to Hindu Pallar Community. The respondent issued the impugned notification dated 11.07.2018 for the post of Office Assistant with the qualification of 8th Std. Pass, in which, they have stated in Clause-8 that physically disabled have to produce suitable certificate for the same. He applied with necessary certificate. He came to know about the consequential impugned communication dated 10.07.2018 that in Clause-5, there is no allotment for physically disabled person. Hence, he sent a petition to the District Collector on 07.01.2019. The respondent informed on 25.10.2018 interview was held and 14 persons were selected and they were given appointment. No one was selected under physically



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disabled quota. Thus, the selection process was not fair and it violate Article 14 of the Constitution of India. Hence, this writ petition.

3.The learned counsel appearing for the petitioner would submit that in Clause 8 of the impugned notification dated 11.07.2018, it has been stated that physically disabled person have to produce suitable certificate for the post of Office Assistant. However, in Clause-5 of the consequential impugned communication dated 10.07.2018, there is no allotment for physically disabled person. If the respondents have taken note of 8th Std. Passed candidate and physically disabled category, then the petitioner may got a chance for employment.

4.Per contra, the learned Additional Government Pleader appearing for the respondent would submit that the appointment was made based on the opinion of the appointment committee constituted for this purpose. The quota referred by the petitioner was not available in the roaster at that point of time. However, one physically disabled candidate has been appointed in the general turn category on merits.



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5.This Court has considered the submissions made on either side and perused the available records.

6.It is seen from the records that the respondent issued notification dated 11.07.2018 for the post of Office Assistant and and the recruitment of persons fill up 14 posts in the post of Office Assistant Cadre. In the notification in Clause 8, it has been stated that physically disabled candidates have to produce suitable certificate. In Clause-5(6) of the consequential impugned communication dated 10.07.2018 issued by the respondent, it has been stated that the recruitment authority viz the respective Deputy Commissioner of respective CT District shall strictly follow the rule of reservation and roster of appointment as stipulated above as per the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

7.At this juncture, it is relevant to cite Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as follows:-

27.Where the special rules lay down that the principle of reservation of appointments shall apply to any service, class or category, selection for appointment thereto



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shall be made on the following basis:—

(a) The unit of selection for appointment, for the purpose of this section, shall be two hundred, of which thirty six shall be reserved for the Scheduled Castes including six offered to Arunthathiyars on preferential basis amongst the Scheduled Castes, two for the Scheduled Tribes, fifty three for the Backward Classes (other than Backward Class Muslims, Most Backward Classes and Denotified Communities), seven for the Backward Class Muslims, forty for the Most Backward Classes and the Denotified Communities and sixty two shall be filled on the basis of merit:

Provided that if even after filling up of the required appointments or posts reserved for Arunthathiyars amongst the Scheduled Castes in Schedule-V, if more number of qualified Arunthathiyars are available, such excess number of candidates of Arunthathiyars shall be entitled to compete with the other Scheduled Castes in the inter-se-merit among them and if any appointment or post reserved for Arunthathiyars remain unfilled for want of adequate number of qualified candidates, it shall be filled up by Scheduled Castes other than Arunthathiyars.

(b) Out of the total number of appointments reserved in the categories referred to in clause (a), in the case of appointment made by direct recruitment, one per cent in each such category shall be separately reserved for the blind, deaf and orthopaedically challenged candidates and



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the appointment shall be made in the turn and in the order of rotation specified in Schedule-VI:

Provided that the appointment of Differently abled candidates, against the reserved turns shall be subject to availability of such candidates:

Provided further that if no qualified and suitable candidate is available from a particular category of differently abled, namely, the blind, the deaf or the orthopaedically challenged, the vacancy shall be filled up by candidates belonging to any of the other two categories. This shall, however, be subject to the third proviso to this clause:

Provided also that in the teaching posts of School Education Department, Adi Dravidar and Tribal Welfare Department, Social Welfare Department and Backward Classes and Most Backward Classes Department, besides orthopaedically challenged, the reservation for the blind shall be two per cent, and there shall be no reservation for the deaf. In the non-teaching posts in the above Departments, besides orthopaedically challenged, the reservation for the deaf shall be two per cent, and there shall be no reservation for the blind:

Provided also that if no qualified and suitable differently abled candidate belonging to Scheduled Caste or Scheduled Tribe or Most Backward Class/Denotified Community is available for selection for appointment against the reserved turn, such turn shall be filled up by a



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candidate other than differently abled belonging to that category and if no such candidate is available in that category for selection for appointment against the reserved turn, then, such turn shall be carried forward as provided in clause (d):

Provided also that in the case of appointment of candidates belonging to Backward Classes (other than Most Backward Classes/Denotified Communities), Backward Class Muslims or in the case of appointment of candidates on the basis of merit, if no qualified and suitable differently abled candidate is available for selection for appointment against the reserved turn, such turn shall be filled up by a candidate other than Differently abled belonging to that category and if no such candidate is available in that category for selection for appointment against the reserved turn, such turn shall be allowed to lapse:

Provided also that in so far as the Executive Posts are concerned, the reservation for Differently abled candidates shall be made applicable in respect of suitable posts in Groups 'A' and 'B' as identified in the list approved by the Government and to all posts in Groups 'C' and 'D', subject to the condition that the Differently abled candidate shall, before appointment, produce a certificate of physical fitness from the Medical Board to the effect that his handicap will not affect the performance of the job to which he has been selected:

Provided also that if the vacancies notified are



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identified suitable for only any two of the three categories of the differently abled, namely, blind and deaf or deaf and orthopeadically challenged or blind and orthopeadically challenged and if the total number of vacancies meant for the ineligible category of the differently abled is even, it shall be distributed equally between the other two eligible categories, or if the said total number of vacancies is odd, the extra vacancy shall be allotted to either of the two eligible category of differently abled, which has higher population as per the latest census:

Provided also that if the vacancies notified or identified suitable for only one category of Differently abled, then, the entire three per cent vacancy shall be allotted to that particular category of differently abled.

8.It is relevant to extract paragraph No.3 of the counter affidavit filed by the respondent, which reads as follows:-

3.It is submitted that the respondent issued the notification dated 11-07-2018 for the post of office assistant and the recruitment of persons fill up 14 vacant posts in the same cadre was issued in News Paper dated 16-07-2018 along with details and records to be produced for consideration. The petitioner has filed application on 24-07-2018. The application received was processed and examined with respect to roaster for appointment. In the roaster quota for physically disabled hands did not take



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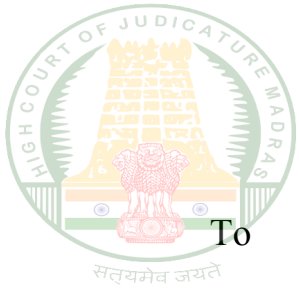
place this time. All the eligible application were listed and called on for interview as per call letter dated 09-10-2018. The petitioner's case did not called reach range of consideration in the eligible case. So the petitioner and other such individuals were selected and appointed as office Assistant as per this office proceedings No. A1/1960/2018 dated 25-10-2018.

9.It is seen from the records that the appointment was made based on the opinion of the appointment committee constituted. The quota referred by the petitioner was not available in the roster at that point of time. However, one d.Aakashmari a physically disabled candidate has been appointed under General turn category on merits. There is no merit in this writ petition and the same is liable to be dismissed.

10.In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Index : Yes / No
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