

(2011) 08 MAD CK 0169

Madras High Court

Case No: Writ Petition No. 13522 of 2009 and M.P. No. 1 of 2009

N. Thirumurthi

APPELLANT

Vs

The District Collector, The
Revenue Divisional Officer, The
Tahsildar, Chengam Panchayat
Union and Arulmani

RESPONDENT

Date of Decision: Aug. 18, 2011

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: V. Suthakar, for the Appellant; R.M. Muthukumar, GA for R1 to R3 and S. Ambigapathi, for R4, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

The Petitioner has filed the present writ petition seeking to set aside an order dated 12.05.2008 and after setting aside the same seeks for a direction to the third Respondent to appoint the Petitioner as Village Assistant at Chengam Taluk pursuant to the interview conducted on 19.09.2007.

2. When the matter came up on 17.07.2009, this Court ordered notice of motion to the 4th Respondent and the learned Additional Government Pleader was directed to take notice on behalf of Respondents 1 to 3. Pending the notice, this Court directed one post of Village Assistant to be kept vacant.

3. On notice from this Court, on behalf of the official Respondents, the second Respondent had filed a counter affidavit dated 18.09.2009. The fourth Respondent also filed a counter affidavit dated 26.07.2010.

4. The impugned order challenged by the petitioner is an order dated 12.05.2008 circulated by the third Respondent Tahsildar publishing the appointment of Village

Assistant for 107 vacancies giving breakup details as well as the roster adopted by them. The petitioner was aggrieved by the appointment of the 4th Respondent as Village Assistant at the Ulagalappadi Village, Chengam Taluk.

5. It was claimed that the post of Village Assistant was reserved for Most Backward Community Non Priority Category as per the information obtained by the petitioner under the RTI Act. The Petitioner belongs to Most Backward Community and registered his name in the District Employment Exchange on 28.07.1986. At the time of registration, he had studied up to 10th standard but failed in the examination. Thereafter, he passed the 10th standard in October 1986, 12th Standard in September 1990 and B.A.(Tamil) as well as B.Ed in the year 1996. The qualification acquired by him were also registered with the District Employment Exchange, Tiruvannamalai.

6. The Government vide G.O.Ms. No. 787 Revenue dated 06.12.2006 granted permission to fill up the vacant posts of Village Assistants from the candidates sponsored by the Employment Exchanges in the ratio of 1:5 and as far as possible, persons who belong to the same village or nearby village should be appointed as Village Assistant. On 24.08.2007, the District Employment Officer sponsored the names of the candidates and as the petitioner was the senior most person, his name was also sponsored. The Petitioner attended the interview on 19.09.2007. However, the Petitioner was not selected. The petitioner filed a writ petition being W.P. No. 5298 of 2008, seeking for a direction to appoint him to the said post. Even while the writ petition was pending, he obtained information from the Right to Information Act and on the basis of the said information, the present writ petition came to be filed.

7. It is the case of the Petitioner that the 4th Respondent was only having "Conductor licence" and his appointment as Village Assistant is illegal. The petitioner is senior to the 4th Respondent based on his employment exchange seniority inasmuch as he got his name registered with the District Employment Exchange in the year 1986, whereas, the 4th Respondent got his name registered in the year 1996. Hence, the Petitioner ought to have been appointed as Village Assistant. It is not open to the Respondents to contend that the Petitioner was over aged. It was contended that even persons beyond 40 years have been appointed and the names of such persons are given in Paragraph 11(c) of the affidavit filed in support of the writ petition. It is under the said circumstances, the Petitioner has filed the present writ petition.

8. In the counter affidavit filed by the second respondent, it was stated that the 4th Respondent who belong to the same village also attended the interview and he was selected on the basis of merit. In such cases, irrespective of their employment exchange seniority, the candidate will have to be selected. If the Petitioner's contention that only seniority in the employment registration has to be considered, then there is no necessity to sponsor candidates on the basis of 1:4 ratio. It is during

the interview the merits of the candidates are assessed and candidates who are suitable subject to other requirements are selected. It was stated that the 4th Respondent was found more suitable by the appointing authority and hence, he was selected.

9. In the counter affidavit filed by the 4th Respondent, it was stated that the qualification for the post of Village Assistant is 5th standard pass with sufficient knowledge to read and write Tamil and that he must belong to the same village or adjacent villages. It was further stated that he has been discharging his duties in the said post for more than two years consequent upon his selection.

10. Even as per the admission of the Petitioner, he belong to Nalalpallam Mottur, Thandarampet Taluk, where as the 4th Respondent belong to the same Village namely Ulagalappadi Village. When the 4th Respondent also attended the interview on the basis of sponsorship by the Employment Exchange and in the interview, he was selected based on merits, there is no case made out to interfere with the appointment given in favour of the 4th Respondent.

11. Hence, the writ petition stands dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.