

(2009) 07 MAD CK 0116
In the Madras High Court
Case No : Writ Petition No. 22257 of 2008

A. Srinivasan

APPELLANT

Vs

The Assistant Director District Employment Exchange and
The Director of Animal Husbandry and Veterinary Services

RESPONDENT

Date of Decision : 29-07-2009

Acts Referred:

Citation : (2009) 07 MAD CK 0116

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Advocate : K. Selvaraj, for the Appellant; A. Arumugam, Special Government Pleader (W), for the Respondent

Judgement

B. Rajendran, J.—The petitioner belongs to Most Backward Class Community. Having passed the Higher Secondary Course Examinations

as early as in the year 1986, the petitioner has registered his educational qualifications in the District Employment Exchange, Salem. It is pertinent

to note that the lands of the petitioner's father had been acquired by the Government of Tamil Nadu for providing house sites to Adi Dravidars. By

a proceedings dated 12.12.2002, the Special Tahsildar, (Adi Dravidar Welfare), Omalur, has certified that the petitioner is entitled for the Land

Acquisition Priority in the employment, as per the provisions of G.O.Ms. No. 188, (Personnel & Administrative Reforms Department) dated

28.12.1976.

2. Based on the certificate of the Special Tahsildar, on 11.3.2002 the first respondent has also made an endorsement in the employment card of

the petitioner that the petitioner is entitled for the Land Acquisition Priority. As the first respondent has not sponsored the name of the petitioner by

giving preference under the Land Acquisition Priority for any post, the petitioner made a representation dated 5.7.2004. Since no orders were

passed, the petitioner has filed a writ petition No. 22243 of 2005 before this Court seeking for a writ of mandamus. This Court by an order dated

11.7.2005 directed the respondents to pass orders on the representation dated 5.7.2004 in accordance with law within a period of twelve weeks

from the date of receipt of a copy of the said order.

3. Pursuant to the order of this Court, dated 11.7.2005, the Secretary to the Personnel Department by a letter dated 4.1.2006 had communicated

to the petitioner that his employment registration has been registered in the office of the first respondent under the Land Acquisition Priority and

that his name would be sponsored when the suitable post according to his qualification and age is called for and required the petitioner to wait for

the same.

4. In spite of such letter of the Secretary to the Government dated 4.1.2006, the petitioner was not sponsored for a period of 11/2 years for any

post. The petitioner again has moved this Court in W.P. No. 23409 of 2007 praying for a direction directing the first respondent to sponsor the

name of the petitioner in future vacancies suitable to his qualification by giving preference as per the earlier proceedings. This Court by an order

dated 11.7.2007, directed the first respondent to consider the grievances of the petitioner and to sponsor the name of the petitioner for future

vacancies, if he is otherwise eligible.

5. The first respondent by a letter dated 5.11.2007 informed the petitioner that the name of the petitioner would be sponsored as and when the list

of eligible candidates is required for a suitable post according to his qualification. However, till date, the petitioner's name has not been sponsored

for any other post taking into consideration his priority list. According to the petitioner, he has been waiting for the past 22 years right from 1986

onwards and atleast from the Land Acquisition Priority endorsement made in the employment card in the year 2002 onwards.

6. The learned Counsel appearing for the petitioner has contended that the first respondent by a press statement published in ""Dinamalar"" daily

dated 14.7.2008 informed that the first respondent is going to send the list of eligible candidates for the post of Veterinary Inspectors and it was

further stated that the priority candidates, who have registered upto 31.3.2008, would be sponsored and the qualification for the post is a pass in

Plus Two course or P.U.C. and the age limit for the Most Backward Classes is 37 years as on 1.7.2008.

7. The learned Counsel appearing for the petitioner further contended that on such publication being made, the petitioner verified with the first respondent and also informed that he was a candidate in waiting. However, the first respondent had informed the petitioner that since the age of the petitioner as on 1.7.2008 is 41 years, his name would not be sponsored for the above said post. Aggrieved against the same, the petitioner has come forward with the present writ petition.

8. The learned Counsel appearing for the petitioner contended that as per G.O.Ms. No. 98, (Personnel & Administrative Reforms Department)

dated 17.7.2006, the upper age limit for entering into the Government service would be relaxed for 5 years to enable the unemployed youth

affected by the ban order of recruitment to apply for the Government job. Since the ban order was in force upto 2006, the said Government order

had been passed by the Government of Tamil Nadu to overcome the difficulties and to enable the unemployed youth to get employment. The age

limit fixed for the Most Backward Classes for the post of Veterinary Inspectors is 37 years as on 1.7.2008 and if the Government order is applied

and the five years relaxation period is added, the petitioner would be a eligible candidate and his name could have been recommended for the post.

9. The learned Counsel appearing for the petitioner further contended that since the petitioner has been a priority candidate waiting from 1986 and

as per the Land Acquisition Priority endorsement made in the employment card in the year 2002, his name ought to have been recommended using

the relaxation and other Government orders, in view of the fact that his name has not been recommended, in spite of the earlier two proceedings of

this Court.

10. The learned Counsel appearing for the petitioner also brought to the notice of this Court that till date no selection has been made as per the

press statement published in ""Dinamalar"" daily dated 14.7.2008.

11. Per contra, the learned Special Government Pleader (Writ) appearing for the respondents has pointed out that the petitioner was not qualified

as per the norms published in the paper as on the date of the notification. The only disqualification, which was brought to the notice of this Court by

the learned Special Government Pleader (Writ), is that the petitioner has crossed 37 years and hence, his name could not be recommended and he

was not eligible. However, the learned Counsel appearing for the petitioner has rightly pointed out the G.O.Ms. No. 98, (Personnel &

Administrative Reforms Department) dated 17.7.2006 and submitted that as the petitioner belongs to Most Backward Class Community, there

could have been no hesitation for the respondents to recommend his name for the post of Veterinary Inspector, if he is otherwise eligible. Only on

the question of age, he could not have been barred from sending the name for selection.

12. The relevant paragraphs of the G.O.Ms. No. 98, (Personnel & Administrative Reforms (S) Department) dated 17.7.2006, read as follows:

2. His Excellency the Governor of Tamil Nadu, in his address in the Tamil Nadu Legislative Assembly on 24.5.2006, has among others,

announced that the upper age limit for entering into Government service will be relaxed by five years, to enable the unemployed youth affected by

the ban order on recruitment, to apply for Government job.

3. The Government after careful consideration, accordingly direct that the upper age limit for entering into government service shall be relaxed by

five years, to enable the unemployed youth affected by the ban order on recruitment, to apply for Government jobs.

4. Necessary amendments to the General Rules for the Tamil Nadu State and Subordinate Services will be issued separately.

13. A reading of the above said Government Order would clearly indicate that the Government in order to help those candidates who have been

prevented in view of the total ban of recruitment, specifically granted the relaxation insofar as the age is concerned, upto 5 years in the case of the

Most Backward Class category. Admittedly, as the petitioner belongs to Most Backward Class community and if the relaxation in respect of age

is applied, even as on date he is definitely eligible, as the petitioner's date of birth is 21.6.1967, on the date of the notification, namely, 1.7.2008,

he is exactly 41 years old and therefore, his name should have been rightly recommended by applying the Government order, which unfortunately

has not been done by the respondents concerned.

14. It would be suffice for this Court, at this point of time, to order that the name of the petitioner should also be included for the selection of the

post of Veterinary Inspector as per the press statement published in ""Dinamalar"" daily dated 14.7.2008, if he is otherwise eligible.

15. This order would operate only insofar as the relaxation of age limit, as the petitioner is entitled to the benefit of priority under the Land

Acquisition Priority candidate and invoking G.O.Ms. No. 98, (Personnel & Administrative Reforms Department) dated 17.7.2006, the writ

petition is allowed with the direction that the petitioner's name should be recommended, if he is otherwise eligible for the said post as per the press

statement published in ""Dinamalar"" daily dated 14.7.2008. Consequently, connected M.P. No. 1 of 2008 is closed. No costs.