

(2013) 07 MAD CK 0387

In the Madras High Court

Case No : Writ Petition No. 945 of 2010 and M.P. No. 1 of 2010

A. Tamilarasan

APPELLANT

Vs

The District Collector, The District Backward Class and
Minorities Welfare Officer and The District Employment
Officer

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2013) 07 MAD CK 0387

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : P. Vijendran, for the Appellant; R. Lakshmi Narayanan, Additional
Government Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

M. Venugopal, J.—The Petitioners have preferred the instant writ of Manadamus praying for issuance of an order by this Court in directing the 3rd Respondent/ The District Employment Officer, Nagapattinam to send interview letter to them for the post of cook vacancies when it arises under the 1st and 2nd respondents. The Learned Counsel for the Petitioners (in both the writ petitions) submits that the 3rd Respondent already sent interview letter to the Petitioners as per proceedings Na.Ka. No. 4833/2005 L1 dated 17.06.2005. Accordingly, the Petitioners appeared before the 1st and 2nd Respondent on 28.06.2005 with all required certificates, but they were not selected.

2. The Learned Counsel for the Petitioners urges before this Court that subsequently, the 3rd Respondent again sent interview letter to both the writ petitioners in proceedings Na.Ka.43929/2008/cook/L1 dated 03.10.2009 and directed them to appear before the Respondents on 21.10.2009. Accordingly, they appeared before the Second Respondent with required certificates on the date specified. However, the Second Respondent cancelled the interview that

took place on 21.10.2009 as per proceedings Na.Ka.43929/2008/cook/L1 dated 19.11.2009.

3. The categorical stand taken on behalf of the Petitioners (in both the writ petitions) is that the 3rd Respondent sent interview letter to more than 100 persons against vacancies numbering about 23 in Nagapattinam District. According to the Petitioners, the 3rd Respondent deliberately and intentionally neglected sent interview letter to both the writ petitioners though the 3rd Respondent sent interview letters to the Juniors of the Petitioners and the same is in violation of Article 14 of the Constitution of India.

4. That apart, the Learned Counsel for the Petitioners forcibly contends that the 3rd Respondent sent interview letter to the persons who were all already working at some places for example interview letter was sent to Shanmugam because he belong to backward community and therefore, this amounts to clear case of discrimination.

5. The pith and substance of the submission of the Learned Counsel for the Petitioners (in both the writ petitions) is that the 3rd Respondent had not sent the interview letter to the Petitioners and as such, both the writ petitioners have filed the present writ petitions before this Court.

6. It comes to be known that the Writ Petitioners herein as against the issuance of notice being ordered to the Respondents passed by the Learned Single Judge on 29.01.2010, preferred Writ Appeal in SR. Nos. 6428 & 6433 of 2010, wherein, the Division Bench of this Court has passed inter alia the following order

...The writ petition will be listed before the learned single Judge taking up such matters as per the Roster on 2nd February, 2010 for admission and appropriate interim orders. We request the learned single Judge to take up the matter on that day and pass appropriate orders.

7. It transpires that this Court in M.P. Nos. 1 & 1 of 2010 in W.P. Nos. 945 & 946 of 2010 on 10.02.2010 has granted Interim direction as prayed for by the Writ Petitioners viz., that 1 & 2 Respondents have been directed to reserve one post of cook to the Petitioners pending disposal of the Writ Petitions and directed the matter to be posted after two weeks for filing counter. Today, the Writ Petitions have come up for final hearing before this Court.

8. In response, the Learned Counsel for the Additional Government Pleader appearing for R1 to R3 submits that in Nagapattinam District, 35 Hostels are functioning under the control of Backward Classes and Minorities Welfare Department and for filling up 23 number of posts of cook vacancies in these Hostels, the 3rd Respondent/the District Employment Officer, Nagapattinam was addressed to send list of eligible persons vide this office Lr. No. L1/43929/2008, dated 20.08.2009.

9. The Learned Additional Government Pleader appearing for the Respondents proceeds to contend that necessary list for filling up of 13 numbers of cook posts

was received from the 3rd Respondent/the District Employment Officer, Nagapattinam and interview was conducted for those persons on 21.10.2009. The Writ Petitioners attended the interview. Further before selecting the eligible candidates, the 3rd Respondent/The District Employment Officer, Nagapattinam sent a letter on 12.11.2009 stating that, the list of persons sent by him was not prepared in accordance with the instructions issued by the Director of Employment, Chennai and that the Director of Employment had instructed him to cancel the list. Accordingly, the 3rd Respondent/The District Employment Officer cancelled the list of Persons sent by him for filling up 13 numbers of Cook Posts. (Employment Officers Lr. No. A3x2-G/50/09 and A3-X2-F/14/2009, dated 12.11.2009 and 18.11.2009)

10. Added further under the aforesaid circumstances, as per the instructions issued by the First Respondent/The District Collector, Nagapattinam, the interview conducted on 21.10.2009 was cancelled and the 3rd Respondent/The District Employment Officer was asked to send revised list of eligible persons for filling up of 23 numbers of cook posts as per the Second Respondent Office Letter No. L1/43929/2008, dated 19.11.2009.

11. It is brought to the notice of this Court on behalf of the Respondents that necessary revised list of eligible persons was received from the 3rd Respondent/The District Employment Officer, Nagapattinam and interview for those persons was conducted on 21.01.2010 and 22.01.2010 respectively and also that, orders of postings were issued.

12. Continuing further, the case put forward on behalf of the Respondents is that interview for selection of cook posts were conducted as pleaded by the Writ Petitioners during the year 2005. But, because of the total ban by Government for new appointments, no one was selected and given the post during the year 2005.

13. The Learned Additional Government Pleader invites the attention of this Court that when the Employment Officer, Nagapattinam was recorded to send revised list of eligible persons for filling up 23 of cook posts as per the Second Respondent Office letter No. L1/43939/2008 dated 19.11.2009, necessary revised list of eligible persons was received from the 3rd Respondent. An Interview was conducted on 21.01.2010 and 22.01.2010 respectively and necessary orders of postings were issued for filling 18 number of posts. Further more, still there are five vacancies for which suitable candidates had not appeared for interview. The 3rd Respondent/The District Employment Officer, Nagapattinam has to be addressed to send list of persons to post. At this stage, the submission of the Learned Additional Government Pleader appearing for R1 to R3 is that if the Writ Petitioners' names are sponsored by the 3rd Respondent/The District Employment Officer, Nagapattinam, then, their name would be considered for appointment as cook. On a careful consideration of respective contentions and in view of stand taken by the Respondents that for filling up of 18 numbers of posts, posting orders were issued still there remained 5 vacancies

for which suitable candidates had not appeared for interview and taking note of the fact that when the Respondents have come up with a plea before this Court that if the Petitioners' names are sponsored by the 3rd Respondent/The District Employment Officer, Nagapattinam, their name would be considered for appointment as cook and that apart, in view of the fact that this Court has passed an order in M.P. No. 1 & 1 of 2010 in W.P. Nos. 945 & 946 of 2010 dated 10.02.2010 directing the 1st & 2nd Respondents to reserve one post to the Writ petitioners for the post of cook pending disposal of Writ Petitions, this Court, on the basis of Equity, Fair play, Good Conscience and even as matter of prudence, directs the 3rd Respondent to sponsor the name of the writ Petitioners for being considered for appointment as cook, among the 5 available vacancies under the 1st & 2nd Respondents within a period of six weeks from the date of receipt of copy of this order and accordingly, the Writ petition is disposed of in above terms. No costs. Consequently, connected miscellaneous petitions are closed.