

(2011) 09 MAD CK 0303

In the Madras High Court

Case No : Writ Petition No's. 23539 of 2010 and Connected Miscellaneous

Indira Gandhi

APPELLANT

Vs

The District Collector Cuddalore District, Cuddalore, The
Revenue Divisional Officer Revenue Divisional Office
Viruthachalam, The District Employment Officer District
Employment Office Cuddalore and The Tahsildar

RESPONDENT

Date of Decision : 08-09-2011

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2011) 09 MAD CK 0303

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : A. Mohan in W.P. No. 23539 of 2010, W.P. No.26336 of 2010, W.P. No. 26337, W.P. No. 26338 of 2010 of 2010, W.P. No. 26339, W.P. No. 26340 and W.P. No. 26341 of 2010 of 2010 of 2010, Mr. G. Anantharangan in W.P. No. 23540 of 2010 and W.P. No. 23541 of 2010, for the Appellant; S. Gunasekaran Government Advocate in W.P. No. 23539 of 2010, W.P. No. 23540 of 2010, W.P. No. 23541 of 2010, W.P. No.26336 of 2010, W.P. No. 26337, W.P. No. 26338 of 2010 of 2010, W.P. No. 26339, W.P. No. 26340 and W.P. No. 26341 of 2010 of 2010 of 2010, for the Respondent

Judgement

The Honourable Mr. Justice D. Hariparanthaman

1. The Petitioners registered their names in the Employment Exchange, Cuddalore District, on various dates. At the time of registration, all of them have failed in 10th Standard. While so, the Government issued an order in G.O. Ms. No. 787, Revenue Department, dated 06.12.2006 to fill up 3674 vacancies of Village Assistants through Employment Exchange and as per the norms prescribed in G.O. Ms. No. 521, Revenue Department, dated 17.06.1998. The Tahsildar is the appointing authority for the post of Village Assistant. Out of 3674 vacancies, 25 vacancies were meant for Thittakudi Taluk. The Tahsildar, Thittakudi sought the list of eligible candidates from the Employment Exchange. Accordingly, the Employment Exchange sent the list of 108 candidates. Based on

the list, interview was fixed on some dates. But the interview did not take place on those days. Finally, the interview took place on 09.09.2010. Totally 69 candidates attended the interview and the Petitioners in these writ petitions were among them. Out of 69 candidates, 8 candidates were selected and 17 vacancies are remaining vacant. The aforesaid facts are not in dispute. Since the Petitioners were not selected, they have filed these writ petitions seeking for a direction to consider them for appointment to the post of Village Assistant based on the interview that took place on 09.09.2010.

2. The Tahsildar, Thittakudi has filed counter affidavits. The only reason given in the counter affidavits for not considering the Petitioners is that some of the Petitioners passed 10th Standard and some of them passed +2 and therefore, they were not considered for the post of Village Assistant.

3. Heard both sides.

4. The Learned Counsel for the Petitioners submits that the appointment to the post of Village Assistant is based on the norms prescribed in G.O. Ms. No. 521, Revenue Department, dated 17.06.1998. Para 5 in G.O. Ms. No. 521 prescribes educational qualification and as per which, the minimum educational qualification was 5th Standard and no maximum educational qualification was prescribed in the said G.O. But the Respondents have stated that the maximum educational qualification was fail in 10th Standard. Hence, the contention of the Respondents is contrary to G.O. Ms. No. 521. It is further submitted that when the Petitioners registered their names in the Employment Exchange, all of them have failed in 10th Standard and subsequently, some of them passed in 10th Standard and some of them passed in +2. When the Government Order does not prescribe any maximum educational qualification, the Respondents are not justified in not considering the Petitioners for the post of Village Assistant.

5. On the other hand, the learned Government Advocate sought to dismiss these writ petitions, based on the counter affidavit.

6. I have considered the submissions made on either side and perused the materials available on record.

7. The Petitioners appeared for the interview on 09.09.2010 for the post of Village Assistant. Admittedly, there were 25 vacancies. Though 108 candidates were sent call letters, only 69 of them, including the Petitioners, appeared for the interview. Out of 69 candidates, 8 were selected and 17 vacancies are still not filled up, as averred in para 4 of the counter affidavits. In para 4 of the counter affidavits, the Respondent Tahsildar has stated that since the Petitioners have passed 10th Standard / +2, they were not considered for the post of Village Assistant. The relevant passage in para 4 of the counter affidavit filed in W.P. No. 26336 of 2010 is extracted hereunder:

4..... This Petitioner has got higher qualification (i.e. +2 passed) at the time of

interview. The same was known on the production of educational qualification certificate. The government have framed minimum educational qualification of 5th passed and maximum of X std failed. Hence, it is not possible to appoint him as Village Assistant against rules and Regulations. Hence the Petitioner was not selected for the above post.

8. At this juncture, it is relevant to extract Clause 6 of the Special Rules for Tamil Nadu Village Assistants Service framed under Article 309 of the Constitution of India, as notified in G.O. Ms. No. 521, Revenue Department, dated 17.06.1998 which reads as follows:

6. Educational qualification

No person shall be eligible for appointment to the post unless he has passed v. standard in a recognised school, namely, a School maintained by or opened with the sanction of the Government of Tamil Nadu or to which recognition has been accorded by the Director of School Education under the Tamil Nadu Educational Rules with sufficient knowledge to read and write Tamil.

The said rule nowhere prescribes any maximum educational qualification and the rule prescribes only the minimum educational qualification. If the petitioners do not possess the minimum educational qualification, the respondents are correct in not considering their claim. Since the Petitioners possess more than the minimum educational qualification, their claim could not be negated. Therefore, the Tahsildar, Thittakudi is not correct in his contention that since the Petitioners have passed 10th / +2, they are not eligible to be considered for appointment to the post of Village Assistant.

9. Therefore, all these Writ Petitions are disposed of with a direction to the Tahsildar, Thittakudi to consider the claim of the Petitioners for appointment to the post of Village Assistant, within a period of six weeks from today and to appoint them as Village Assistants, if they are otherwise eligible. No costs. Consequently, connected miscellaneous petitions are closed.