

**(2008) 01 MAD CK 0177**  
**In the Madras High Court**  
**Case No : Writ Petition No. 33227 of 2007**

M. Kandasamy

APPELLANT

Vs

The District Collector, The Tahsildar and Murugan

RESPONDENT

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**Date of Decision :** 24-01-2008

**Acts Referred:**

**Citation :** (2008) 01 MAD CK 0177

**Hon'ble Judges :** K. Chandru, J

**Bench :** Single Bench

**Advocate :** R. Thamaraiselvan, for the Appellant; Bhavani Subbaroyan, AGP for Respondents 1-3 and M. Sekar, for Respondent 4, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K. Chandru, J.—Heard Mr. R. Thamaraiselvan, learned Counsel appearing for the petitioner and Mrs. Bhavani Subbaroyan, learned

Additional Government Pleader representing the respondents and perused the records.

2. The petitioner admittedly is about 40 years old and in the present writ petition, he is seeking for a direction to the respondents to consider his representation dated 21.9.2007 for the appointment as Village Assistant in Kukkalmai village in Dharmapuri Taluk.

3. The petitioner belonged Scheduled Caste community and he had studies up to 5th Standard and his name was sponsored by the District

Employment Exchange, Dharmapuri, for the selection and appointment to the post of Village Assistant at Kukkalmai village. He also attended an

interview on 12.9.2007. According to him, though he was fully qualified and eligible to be appointed, he was not selected and an appointment

order was issued to the third respondent on 17.9.2007. Thereafter, he sent a representation dated 10.9.2007 stating that he should be given the post of Village Assistant which was followed by a further letter dated 21.9.2007 to the District Collector. It is also stated in his representation that one Murugan, son of Manickam, who was 37 years old had been appointed to the said post though he was junior in registration in the District Employment Exchange.

4. However, a counter affidavit has been filed by the second respondent refuting the allegations made by the petitioner. It was stated that the petitioner was 41 years old as on 14.9.2007 whereas the third respondent was 36 years old. While the educational qualification of the petitioner was 5th standard, the third respondent was 10th standard fail. While the petitioner crossed the maximum age prescribed for the post of Village Assistant, which is 40 years, the third respondent, was well within the upper age limit prescribed for the post. With reference to the date of registration in the Employment Exchange, the petitioner got registered on 07.9.2007 whereas the third respondent got registered on 10.9.2007 thereby having only three days difference. It is stated that the respondents have considered all the relevant factors and had chosen to appoint the third respondent since he is having superior qualifications. It was stated that since the petitioner has crossed upper age limit, his case cannot be considered for any appointment.

5. Mrs. Bhavani Subbaroyan, learned Additional Government Pleader representing the respondents, submitted that G.O. Ms. No. 521 Revenue Department dated 17.6.1998 prescribes the Special Rules for the post of Tamil Nadu Village Assistants Service and in terms of Rule 5, no person can be appointed if he had crossed the age of upper age limit fixed therein. In respect of SC candidates, it is stated that 35 years is the upper age limit. Though it is contended by the learned Counsel for the petitioner that by virtue of G.O.Ms. No. 98 Personnel and Administrative Reforms Department dated 17.7.2006, the Government has granted relaxation for the upper age limit for a period of five years in order to make the unemployed youth affected by the ban imposed on fresh recruitment, but, it is stated that the same will not apply since age relaxation has been given in terms of Special Rules and even in cases where the job qualification

requires any qualification above the S.S.L.C., relaxation can be given from the maximum age limit prescribed under the relevant rules. Therefore, he cannot be considered for the said post. Further, it was submitted that the relative merits of the petitioner and the third respondent have been taken into account and the petitioner cannot have superior claim over the third respondent whose selection was done by the authorities.

6. Under these circumstances, the writ petition filed by the petitioner is misconceived and accordingly, dismissed. However, there will be no order as to costs.