

(2002) 07 MAD CK 0029

In the Madras High Court

Case No : Writ Petition No. 13454 of 1995 and W.M.P. No. 21568 of 1995

M. Udayabhanu

APPELLANT

Vs

The Government of Tamilnadu

RESPONDENT

Date of Decision : 26-07-2002

Acts Referred:

Citation : (2002) 07 MAD CK 0029

Hon'ble Judges : A. Kulasekaran, J

Bench : Single Bench

Advocate : N. Paul Vasanthakumar, for the Appellant; D. Malarvizhi, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

A. Kulasekaran, J.—The dispute in this writ petition is whether the couples married prior to 24.09.1986 are entitled to get provision of priority of employment assistance. The petitioner belonged to Forward Community. She married one M. Kumar on 10-09-1986 who belongs to Arunthathiar Community which is a scheduled Caste and she is allegedly entitled to get the benefits as per G.O.Ms. No. 188 - Personnel and Administrative Reforms Committee dated 28-12-1976 and the same was issued in supersession of the orders issued in the Government Orders cited therein.

2. In and by the said G.O., the Government has directed that order of priorities in regard to provision of employment assistance through employment exchange to disabled ex-servicemen and for the members of the family of defense service personnel killed in action. The said G.O. was amended by G.O. Ms. 229, P&AR dated 07-04-1988 thereby the said priority

was extended to destitute widows. Again, the said G.O. was amended extending the said priority to inter-caste married couple (where one of the spouses belong to SC/ST) with effect from 24-09-1986.

Another G.O. Ms. No. 53 dated 12-12-1988 was issued by the Government of Tamil Nadu directing that the inter-caste married couples should

register their names in the employment exchanges within two years along with the community certificate issued by an Officer not below the rank of

Tahsildar and the marriage document has to be registered in the office of the Sub-registrar of Marriages. In and by G.O. Ms. No. 910, P&AR

dated 24-12-1992, the Government has issued orders stating that (i) priority concession in sponsoring inter-caste married couple should be

available to the couples who get married after issuance of the G.O. Ms. 939 (ii) the time limit of two years shall be reckoned only from the date of

marriage of the inter-caste married couple and (iii) Inter-caste married couple should register their names in the employment exchange within two

years to avail the priority concession of sponsoring the names by the employment exchanges. The two years period for the purpose of registering

the names in the employment exchange was dispensed with.

3. G.O. Ms. No. 257 dated 23-03-1994 (finance Department) was issued on the recommendations made by the Director of Employment and

Training requesting that the priority accorded to the inter-caste married couple while sponsoring the candidates by employment exchange to State

Public Sector Undertakings / Boards to be made available to those whose inter-caste marriage took place on or after 24-09-1986. The petitioner

has challenged the cut off i.e., 24-09-1986 fixed in the said G.O.

4. Mr. Paul Vasanthakumar, learned counsel appearing for the petitioner argued that the intention of the State Government for issuance of the said

G.O. was to promote and encourage inter-caste marriages. While so, restricting the benefit only to those couples got married on or after 24-09-

1986 is unsustainable. It is further canvassed by the learned counsel that inter-caste married couple is a clause by itself and there cannot be any

distinction on the basis of the date of marriage. The learned counsel also relied on D.S. Nakara and Others Vs. Union of India (UOI), . It is also

further argued by the learned counsel that the District Schedule Caste Welfare Officer, Salem and the Tahsildar, Authur has issued certificate in

favour of the petitioner; that the marriage was also registered with the Registrar of Marriages in the year 1988 which was produced by her on 05-

06-1999. The petitioner has also registered her name with the 3rd respondent on 14-03-1988. The 3rd respondent herein has issued a

communication dated 01-02-1995 cancelling the priority given to the petitioner on the ground that the marriage was held prior to the cut off date

and prayed for quashing the same.

5. Now, we look into the relevant G.O.s

G.O.Ms. No. 939, Personnel and Administrative Reforms Committee dated 24-09-1986

..2. The following amendment issued to G.O. Ms. No. 188 Personnel and Administrative Reforms (Personnel. P) dated 28.12.1976.

Amendment

(1) In the list of priority categories annexed to the said Government Order for the existing item (1) under group II the following shall be

substituted:-

Intercaste married couple (where one of the spouses belongs to SC/ST

(2) The existing item No. (i) and (ii) and (iii) under Group II of the said annexure shall be numbered as (ii) (iii) and (iv).

6. Based on the said G.O. the petitioner has registered her name with the employment exchange, the third respondent on 14-03-1988. The

petitioner also produced necessary certificate of registration of her marriage on 05-06-1989. The Government has later issued the G.O. Ms. No.

410 Personnel and Administrative Reforms Committee dated 24-12-1992 which runs as follows:-

GOVERNMENT OF TAMIL NADU ABSTRACT

Public Services - Intercaste married couple - Giving priority in sponsoring candidates through Employment Exchanges - Prescription of a time

limits of two years from the date of marriages for registration with Employment Exchange for availing priority concession - Dispensed with -

Orders - issued.

PERSONNEL AND ADMINISTRATIVE REFORMS (PERSONNEL-R) DEPARTMENT

G.O.Ms. No.410 Dated 24.12.1992

Read:-

1. G.O. Ms. No. 939, Personnel and Administrative Reforms (Personnel-R) Department, dated 24.09.1986.

2. G.O. Ms. No.53, Personnel and Administrative Reforms(Personnel-R) Department dated 12.02.1988.

3. G.O. Ms. No. 685, Personnel and Administrative Reforms (Personnel-R) Department dated 26.12.1989.

4. From the Director of Employment and Training, Madras-5 letter No.Pa.Pa.1/80108/88, dated 12.10.1989.

ORDER:-

1. In the Government order first read above, priority has been accorded to the intercaste married couple where one of the spouses belongs to

Scheduled Caste/Scheduled Tribe for sponsoring through Employment Exchange.

2. Further, with a view to identifying intercaste married couple for the purpose of priority consideration in the matter of sponsoring by the

Employment Exchanges, it was ordered in the Government Order second read above, that the intercaste married couples should register their

names in the Employment Exchanges within the time limit of two years along with (1) the Community Certificate from an Officer not below the rank

of Tahsildar and (2) the marriage document registered in the office of the Registrar of Marriages.

3. In the Government Order third read above, orders were issued as follows:-

i) The priority concession in sponsoring the intercaste married couple should be available to those couples who got married after issue of the orders

in G.O. Ms. No. 939, Personnel and Administrative Reforms (Personnel-R) Department, dated 24.09.1986:.....

G.O. Ms. No. 257 dated 23-03-1994 runs as follows:-

GOVERNMENT OF TAMIL NADU ABSTRACT

State Public Sector Undertakings - Recruitment through Employment Exchange - Priority to Inter-caste married couple - Cut off date Orders -

Issued

FINANCE (BPE) DEPARTMENT

G.O. Ms. No. 257 Dated : 23.03.1994

Read:

- 1) G.O.Ms. No. 429 Finance (BPE) Department, dated 19.05.1987
- 2) G.O. Ms. No.203, Finance (BPE), dated 20.03.1992
- 3) From the Director of Employment & Training, Lr. No. Pa.Pa.1/82355/93 dated 30-11-1993.

ORDER:

1. In the G.O. first read above, Government have prescribed order of priorities to be followed by all State Public Sector undertakings including

State Transport Undertakings and Statutory Boards while making recruitment through Employment Exchanges. In the G.O. second read above

Government have issued an amendment to the list of priority categories prescribed in the G.O. first read above to include inter-caste married

couple (where one of the spouses belong to Scheduled Caste/Scheduled Tribes).

2. Director of Employment and Training in his letter third read above has suggested that this priority accorded to inter-caste married couples in

G.O. first read above amended in G.O. second read above be made available to those whose inter-caste marriage took place on or after

24.09.1986 for the purpose of uniformity as the same is being followed for public service.

3. The Government after careful consideration accept the request of the Director of Employment and Training and accordingly direct that the

priority accorded in G.O. first and second read above to the inter-caste married couples while sponsoring candidates by Employment Exchange to

State Public Sector Undertakings/Boards be made available to those whose inter-caste marriage took place on or after 24.09.1986.

(BY ORDER OF THE GOVERNOR)

S. MALATHI

SPECIAL SECRETARY TO GOVERNMENT

7. It is evident from the said G.O. and the impugned G.O. that the Government has originally given priority to the disabled ex-servicemen and for

the members of the family of defense service personnel killed in action by G.O. Ms. 188 P&AR dated 28-12-1976. Later, G.O. Ms. 229, P&AR

dated 07-04-1988 was issued extending the said priority to the destitute widows. Again, by G.O.Ms. No. 939 dated 24-09-1986, the priority

was extended to inter-caste married couples. It is evident from G.O.Ms. No. 939 that Director of Employment and Training has suggested that

priority may be accorded to inter-caste married couples (where one of the spouses belong to SC/ST) for the purpose of nomination through

employment exchange and that they may be assigned priority. The Government, after careful consideration has assigned priority to the said

category also.

8. It is the case of the petitioner that the said amendment was effected in G.O.Ms. No. 188 dated 28-12-1976 as such it should be deemed that

the priority is with retrospective effect from the date in which the said G.O. was issued. I am unable to accept the said contention of the petitioner

as the Government of Tamil Nadu, for the first time extended the benefit to the said category of inter-caste married couple (where one of the

spouses belonged to SC/ST) by issuing G.O.Ms. No.939 dated 24-09-1986 and the said G.O. was not given retrospective effect as such it shall

come into force from the date of issuance of the same.

9. The Government has issued G.O. Ms. No. 685, P&AR dated 26-12-1989 reiterating the cut off date as 24-09-1986 in terms of G.O.Ms. No.

939. Again, by G.O. Ms. No.257, the cut off date was confirmed. The new category of inter-caste married couple was introduced for the first

time by G.O.Ms. No. 939 dated 24-09-1986 with prospective effect as such the petitioner is not entitled to the benefit of the said G.O. Therefore,

the judgment relied upon by the learned counsel for the petitioner in D.S. Nakara and Others Vs. Union of India (UOI), cannot be made

applicable to the facts and circumstance of the case.

10. The 3rd respondent has assigned priority to the petitioner by misconstruing the G.O.Ms. No. 939, which was rightly cancelled by the

impugned order dated 01-02-1995. The other argument of the counsel for the petitioner that before passing the impugned order, the 3rd

respondent has not given any notice or opportunity is also unsustainable because the original order of assigning priority was also contrary to the

G.O.s, which was rightly cancelled.

11. Considering the circumstance of the case that the petitioner's inter-caste marriage took place just a couple of days prior to the issuance of the

G.O., I feel that the Government can sympathetically consider the petitioner's name as a special case on submitting an application by her within a

period of three weeks from the date of receipt of this order. It is also made clear that this order shall not be cited as a precedent in future.

With the above observations, this writ petition is dismissed. No costs. Connected WMP is closed.