

(2011) 12 MAD CK 0137

In the Madras High Court

Case No : Writ Petition (MD) No. 212 of 2010 and Cont.P. (MD) No. 182 of 2011

Meena

APPELLANT

Vs

The District Collector, Thiruchirappalli District,
Thiruchirappalli, District Backward Classes and Minorities
Welfare Officer, Collectorate Buildings, Thiruchirappalli,
District Scheduled Castes and Scheduled Tribes Welfare
Officer, Collectorate Buildings, Thiruchirappalli and Public
Information officer/Assistant Director, District Employment
Office, Mannapuram, Thiruchirappalli-620020

RESPONDENT

Date of Decision : 23-12-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 309

Citation : (2011) 12 MAD CK 0137

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : S. Subbiah, for the Appellant; T.S.Md. Mohideen, Additional
Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice K. Chandru

1. In all these writ petitions, the petitioners claim was that they are trained cook having got their names not only registered in the employment exchange long before but also on the basis of the experience certificate produced from different private mess/hotels, they have got their names registered as priority candidates. Notwithstanding their names were under the priority category in disregarding the Government order in G.O.Ms.No.106, Special Welfare Department, dated 17.01.1986 has not been given the post of cook in the welfare hostels run by the respondent namely, the District Backward Classes and Minorities Welfare Department. Therefore, all these writ petitions seeking for a direction to the respondents to appoint them from the priority list for which their names find place and also to conduct interview and fill up posts in terms of the said

Government order.

2. The case of the petitioners claimed in the writ petitions can be summarized in the following table:

Sl. No.

Name

Educational Qualification

Employment Card No/Date

Priority No/Year

Experience

1.

Meena (W.P.No.212/2010)

VIII

W7368/94-01.08.1994

7/6/2000

2 years

2.

P. Ravi (W.P.No.14111/2009)

XI

X0110-24.07.1986

281/97

3 years

3.

S. Sasikumar (W.P.No.14112/2009) Certificate of Food Production

XI

X0115-29.06.1994

9048/94

4.

A. Prabhakaran (W.P.No.14113/2009)

XI

2602/99-14.05.1999

520 20 SF-29.07.2000

2 years

5.

K.S. Arun (W.P.No.14114/2009) in Food Production

XII + Certificate

2004 M03558 04.06.2004

521 SF 0.06.200

3. First of all, it has to be seen the purport of the G.O.Ms.No.106, dated 17.01.1986. The said order issued by the Government regarding the welfare of the hostels relating to the contingent staff working in the hostels in the posts of Head cooks, cooks assistant cooks and watchman cum servant and servant maid.

4. The State Government on a finding that number of people are working in the Government hostels attached to the Backward Classes and Adi Dravida Welfare Departments were not regularised. Therefore, in order to regularise them on an adhoc rules and the said Rules were framed under Article 309 of the Constitution prescribing the method of recruitment for the said posts. For the post of Assistant cook, the special rules provides the method of recruitment as direct recruitment which includes that they must have qualification of ability to write and read in Tamil and sufficient practical experience in cooking.

5. The contention of the petitioners was that since Special Rules provides experience as a criteria, the employment exchange is bound to register their names on a priority basis with the persons who having experience and only those persons can be sponsored when names called for the said post. This is the prima facie under which the petitioners have filed the writ petitions.

6. It was strongly refuted by the respondents in the counter affidavit sworn to by the District Backward Classes and Minorities Welfare Officer, Tiruchirappalli It was stated that the application of the Government order in the case of the petitioners is unwanted and not applicable and accordingly, the employment exchange when they sponsor the names for the posts, the relevant qualification of candidates will be considered but there is no question of maintaining any priority list. Ultimately, the experienced candidates in the employment exchange and there is no statutory rule or instructions by the Government or any subordinate higher officials prescribed for maintaining any separate list in this context. The petitioners cannot introduce a new rule for prescribing cut off date for sponsorship of employment exchange based upon the so-called experience certificates produced by the petitioners. In effect, the special rules, only modified the experience and criteria for appointment but that can be done only when the candidates called for, pursuant to the request made by the authorities to appoint. It is also further stated that as on date the recruitment rules framed under Article 309 of the Constitution and there is no deviation from Article 14 of the

Constitution and the names called for from the employment exchange and thereafter on the basis of the existing rules, appointments have been made. The question of experience of any cook or assistant cook will be considered at the time of interview by a selection committee and not before.

7. Notwithstanding the counter affidavit, the learned counsel for the petitioners made an alternative submission, namely that even their original registration that had not been taken note of while sponsoring their names and therefore, inasmuch as the petitioners registered their names long before, their names should be considered even as a non priority candidate.

8. A perusal of the affidavit filed in support of the writ petition do not raise any such claim and there is no details regarding as to whether the persons who have been sponsored and the names of the persons not enclosed and the petitioners at the time of final hearing, cannot change the stand and make altogether different cases. In the counter affidavit, it is specifically stated that the department has been simultaneously followed the lists prepared by the employment exchange and only such persons who have qualified in terms of special rules alone were appointed. There is no reason to hold the stand taken by the respondents. Hence, there is no case made to entertain the writ petitions.

9. Hence, all the writ petitions will stand dismissed. In view of the dismissal of the writ petitions, there is no case made out for contempt and no statutory notice has been issued to the respondents so far. Therefore, the contempt petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.