
(2011) 04 MAD CK 0308

In the Madras High Court

Case No : Writ Petition (MD) No. 7145 of 2007 and M.P. No. 1 of 2007

P. Vijayakumar

APPELLANT

Vs

The District Collector, The Tahsildar and The District
Employment Officer

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Citation : (2011) 04 MAD CK 0308

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : Veera Kathiravan, for the Appellant; D. Sasi Kumar, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

M. Venugopal, J.—The Petitioner has filed the present Writ Petition seeking a relief of Writ of Mandamus in directing the First Respondent/District Collector to approve the selection of the Petitioner as Village Assistant as per the selection proceedings of the Second Respondent, in Na. Ka. No. A5/452/2007, dated 16.04.2007, on par with the other selected candidates.

2. The Petitioner joined the Government High School in Inungoor and studied upto Eighth standard. He had not completed his eighth standard. The Government High School, Inungoor issued the Transfer Certificate to him. He registered his name in the Third Respondent/District Employment Office, on 23.02.2004 for the purpose of seeking Employment in the Government Departments. The Registration number is 383/2004.

3. The Second Respondent/Tahsildar, Kulithalai on 26.03.2007 through his proceedings called for interview to the post of Village Assistant in Kulithalai Taluk. An interview card was sent to the Petitioner on the basis of his seniority in the Third Respondent/Employment Exchange Office. The Second Respondent/Tahsildar requested him to appear on 09.04.2007 at about 11.00 A.M. for an

interview.

3. According to the Petitioner, the qualification for the post of Village Assistant as per the interview card is that a candidate should know driving of a Bicycle, must be within the age limit prescribed by the Government, the educational qualification being that a candidate should have completed the fifth standard and further should write tamil. The other qualification relates to health, age, caste certificate and a candidate should not have more than one wife. He attended the interview on 09.04.2007 and his name was recommended by the Second Respondent/Tahsildar to the post of Village Assistant in respect of Nalloor village. To his shock and surprise, the appointment process itself was cancelled by the Government. The Government came forward with another appointment in G.O. Ms. No. 79 dated 08.08.2007 in and by which the appointment ratio at 1:5 was fixed and all the Tahsildars were directed to adhere to the same.

4. The Second Respondent/Tahsildar fixed the interview for the post of Village Assistant on 30.08.2007 at about 11.00 A.M. and started issuing the interview cards. The Petitioner was one of the senior most person registered with the Third Respondent's office. Because of his seniority in the interview dated 09.04.2007, he was issued with a interview card, by the Second Respondent. Now the Second Respondent/Tahsildar had not issued the interview card with the malafide intention.

5. The Second Respondent had issued only twenty four interview cards when he ought to have issued forty interview cards on the basis of seniority in the Third Respondent's office. On an enquiry, he found that one V. Harikrishnan son of Vallaisamy of Nachaloor village received interview card for the interview dated 30.08.2007 from the Second Respondent Office. His registration in the Third Respondent Office was dated 25.01.2005 with registration No. 074. Soon, he verified with the Second Respondent's office, but there was no positive response. The Second Respondent was not following the appointment procedure in a transparent manner. The individuals who received the interview cards were all juniors to the Petitioner and the necessary details are as follows:

S.NO.

Registration No.

Name and Address

01

2006 M06117

P.Rajendran,

SF 10.10.2006

S/o.Palanisamy, 10,KeelaNadavanaKaadu, Nangavaram, Kulithalai.

02

2006 M06463

P.Sivakumar

SF 23.11.2006

S/o.Ponnan, 70, KadambarKoil Street Kulithalai, Karur.

03

2006 M06708

P.Dhanapal,

SF 11.12.2006

S/o.Pitchaikaran, 31,Kuppureddi Patty, Marudhur, Kulithalai, Karur.

04

2001 M00433

V.Gopalakrishnan,

SF 23.02.2001

S/o.Venkatraj, 27-A, Andal Main Road Kulithalai, Karur.

05

2004 M04008

V.Muruganandam,

SF 25.10.2004

S/o.Venkatachalam, Naidaloor, Kalathupatty, Kulithalai, Karur.

06

2006 M04354

M.Manivel,

SF 18.07.2006

S/o.Muthu, 5/56, Anandapuram, Udayapatti, Kalugoor, Kulithalai, Karur.

07

2006 M04734

K.Shanmugam,

SF 27.07.2006

S/o.Karuppudaiyan, 6/49,Anandapuram, Udayapatti(E) Kalugoor, Kulithalai, Karur.

08

2007 F 00391

R.Amudha,

SF 09.02.2007

W/o.V.Pandian, 7, SabapathiNadar Street, Kulithalai, Karur.

09

2004 F 00191

P.Valli,

SF 05.03.2004

D/o.Periasamy, 1/51, Keelakuttapatty, Vaigainallur, Kulithalai, Karur.

10

2006 F 04212

D.Madhivadhani

SF 29.06.2006

D/o.RamaniVasagam, Nadupatty, D.MarudhoorKulithalai,Karur.

6. The stand of the Petitioner is that the act and attitude of the Second Respondent would reveal that the present appointment for the post of Village Assistant as per the proceedings of the Second Respondent in Na. Ka.A5/452/2007 dated 16.04.2007 was not in accordance with the Rules and Procedures. Therefore, he was left with no other option but to file the present Writ of Mandamus in praying for a issuance of a direction by this Court to the First Respondent to approve the selection of the Petitioner as Village Assistant as per the selection proceedings of the Second Respondent in Na. Ka. No. A5/452/2007, dated 16.04.2007 on par with the other selected candidates.

7. The learned Government Advocate appearing for the Respondents contended that the Second Respondent/Tahsildar called for an interview by means of his proceedings in Na. Ka. No. A5/452/2007 dated 16.04.2007 in respect of the post of Village Assistant and that the Government have sanctioned through G.O. Ms. No. 787(Revenue Services 7) Department dated 08.12.2006, to fill up 3674 Village Assistant posts through out the Tamil Nadu through Employment Exchange. The G.O. Ms. No. 521 Revenue dated 17.06.1998 prescribe the norms of recruitment for the post of Village Assistant, for twelve vacancies in 12 villages mentioned therein. Therefore, a direction was sought from the First Respondent/District Collector, Karur to fill up the vacancies through Employment Exchange as per the proceedings in R.C. No. 452/2007 dated 18.01.2007.

8. The learned Government Advocate appearing for the Respondents submits that on 06.02.2007, a letter was addressed to the Third Respondent/District

Employment Officer, Karur to furnish the list of eligible persons to the Village Assistant Post and on 27.02.2007, the said application was represented for rectifying the defects mentioned by the Third Respondent. Further, on receipt of list from the Third Respondent/District Employment Officer, Karur, an intimation was sent on 28.03.2007 to attend the interview on 09.04.2007. The interview was postponed because the list submitted by the Third Respondent had not complied with the 33% Women Quota in accordance with the letter X 2(2)79191/06 dated 13.03.2007. As such the revised list/rectified list was received from the Third Respondent office on 03.04.2007 and interview cards were sent to all persons whose names were found in the list to attend the interview on 16.04.2007. The Petitioner attended the interview for obtaining the approval/concurrence of the Revenue Divisional Officer, Kulithalai, entire file was sent to him on 16.04.2007. At this stage, the Government issued G.O. Ms. No. 85, dated 30.03.2007 which was received by the Second Respondent on 24.05.2007. As per the said Government Order, for filling up vacancy in any employment in Government Departments, the Employment Exchange shall sponsor candidates in the ratio of 1:1 as per seniority of registration, who are in the live register.

9. On 08.08.2007, the Government issued G.O. Ms. No. 429, ordering the recruitment of Village Assistants from the candidates sponsored by the Employment Exchange as per the seniority of registration, who are in the live register in the ratio of 1:5. The Joint Commissioner of Revenue Administration, Chennai through his letter, dated 09.08.2007 had issued instructions to complete the process before 31.08.2007. As such a list was called for from the Third Respondent Office to sponsor candidates in the ratio of 1:5 on 13.08.2007 and the list was furnished by the Third Respondent on 20.08.2007 and the interview letter was issued to those who are sponsored by the Third Respondent, on 21.08.2007 and the interview was called for on 30.08.2007. In the said list, the Petitioner's name was not found. At this stage, he filed the present Writ Petition and in M.P.(MD) No. 1 of 2007, this Court on 13.08.2007 has passed the following order.

Interim Injunction restraining the Second Respondent from filling up the posts in- (i) Marudur South Bit-1 (ii) Marudur South Bit-2, (iii)Nallur, which are shown as Serial Nos. 3, 4 and 6 in the Interview Notice dated 20.08.2007 until further orders

10. The core contention put forward on the side of the Respondents is that only because of the revised instructions issued by the Government, the Petitioner's name had not found a place in the list sent by the Third Respondent Office. Added further, the learned Government Advocate appearing for the Respondents contends that the Petitioner registered his seventh standard qualification on 23.02.2004 as per Registration No. 2004 M00383, NCO Code No. is X0290. The Second Respondent/Tahsildar notified eight posts of Village Assistant during April 2007 and at that time his registration was on live register and as such his name

was sponsored. But, these vacancies were cancelled by the Second Respondent due to Administrative reasons and further on 20.08.2007, the Second Respondent again notified 8 vacancies of Village Assistants and requested to sponsor candidates in the ratio of 1:5 and a list of eligible candidates was sent on 20.08.2007.

11. The learned Government Advocate submits that the Petitioner failed to renew his employment card and thereby his record was transferred to dead register and indeed his registration was not on live register on the date of submission of candidates for the post of Village Assistant and also that he again renewed his registration on concession only on 30.08.2007.

12. The learned Counsel for the Petitioner contends that in the proceedings of the Second Respondent/Tahsildar addressed to the Revenue Divisional Officer, Kulithalai dated 16.04.2007, the name of the Writ Petitioner has found at Serial No. 8 and that the Petitioner belongs to a Backward Community. In the said proceedings, the Second Respondent/Tahsildar has requested the Revenue Divisional Officer, Kulithalai to publish the list of persons, who have been selected for the post of Village Assistants and further he has mentioned that he has enclosed the certificates and the Employment Exchange Office list for perusal.

13. At this juncture, this Court worth recalls the decision of the Hon''ble Supreme Court in Rani Laxmibai Kshetriya Vs. Chand Behari Kapoor and Others, , wherein it is held that "Inclusion of name in select list does not confer indefeasible right to be appointed".

14. Furthermore, this Court pertinently points out the decision of Hon''ble Supreme Court in Union Territory of Chandigarh Vs. Dilbagh Singh and others, , wherein it is laid down that "The selectees are not entitled to an opportunity of hearing before cancellation as eventhough they have a legitimate expectation but they have no indefeasible right to be appointed in the absence of any rule to that effect e.t.c."

15. That apart, this Court cites the following decisions:

(a) In Union of India and others Vs. N.R. Banerjee and others, at paragraph 12, it is held that "Mere inclusion of one's name in the list does not confer any right on him/her to appointment and further the Government is free not to fill up the vacancy"

(b) In Union of India and others Vs. K.V. Vijesh, , wherein paragraph 7 and 8, which is observed hereunder:

7. In view of the above pronouncement of this Court the order of the Tribunal directing absorption of the Respondent solely on the ground that his name was included in the select list cannot be sustained. The reliance of the Tribunal on the judgment of this Court in Prem Prakash Vs. Union of India (UOI) and Others, , particularly, the above quoted passage was wholly misplaced for, in that case, the notification regarding recruitment specifically providing that once a person was

declared successful according to the merit list of selected candidates the appointing authority had the responsibility to appoint him even if the number of vacancies had undergone a change after his name has been included in the list of selected candidates. It further provided that where selected candidates were awaiting appointment, recruitment should either be postponed till all the selected candidates were accommodated or, alternatively, intake for the next recruitment reduced by the number of candidates awaiting appointment. Relying solely on the above notification this Court made the earlier quoted observations in Prem Prakash case, (supra). In absence of any such rules governing the appointment of the Respondent, the Tribunal was therefore not justified in passing the impugned order.

8. Though the above discussion of ours was sufficient to set aside the impugned order, we had, keeping in view the observations of this Court in Shankarsan Dash Vs. Union of India, - called for and looked into the relevant records of the Railways to ascertain whether the Railway Administration has acted arbitrarily in rejecting the Respondent's claim and, for that matter, whether appointments had been made according to the comparative merits of the candidates or not. The records not only indicate that the contention of the Railways that the Respondent was placed at the bottom of the list is correct but also that the appointments have been made according to the comparative merits of the candidates. It cannot, therefore, be said that the rejection of the Respondent's claim was arbitrary or discriminatory.

(c) In Hanuman Prasad and Others Vs. Union of India (UOI) and Another, , it is held that

The power to cancel the select list for appointment to Group "C" posts of Ticket Collector on the ground of malpractice in writing the examination can be exercised even by the Divisional Manager authorised by the General Manager, Railways

(d) In State of Orissa and Others Vs. Bhikari Charan Khuntia and Others etc., wherein at paragraph 8 and 9, it is observed as follows:

8. As was observed by this Court in Government of Orissa through Secretary, Commerce and Transport Department, Bhubaneswar Vs. Haraprasad Das and Others, , whether to fill up or not to fill up the post, is a policy decision and unless it is arbitrary, the High Court or the Tribunal has no jurisdiction to interfere with such decision of the Government and direct it to make further appointments. In the present case, even no selection was made and not even any select list was in existence. Even if there had been any such selection or inclusion of any of the names in the select list, same could not have given any right. Therefore, mere sending of name by the employment exchange could not have and in fact has not conferred any right. The writ applications are thoroughly misconceived, and the Court misdirected itself as to the nature of relief to be granted.

9. It cannot be lost sight of that because of certain circumstances and policy decision which were also brought to the notice of the High Court, appointments could not be made. The reasons which persuaded the Government to absorb those who were rendered surplus on account of abolition of octroi and the decision taken to abolish Substantial number of posts to minimize expenditure cannot be said to be either extraneous or irrelevant for the purpose to be ignored by the Court in according relief to the writ petition. But the High Court notwithstanding chose to give directions as quoted above. The appointments made in respect of some who got empanelled on regular selections made by the recruitment Board pursuant to the selection process undertaken does not give any sustenance to the writ Petitioners to claim parity of treatment when their claims cannot be equated to those of such empanelled candidates.

(e) In the decision U.P. Bhumi Sudhar Nigam Ltd. Vs. Shiv Narain Gupta, , in paragraph 6 the Hon"ble Supreme Court has held as follows:

(6) We may briefly notice the factual stand taken by the Corporation before the High Court. It is stated that in January 1990 the World Bank assessed the possibility of entrusting a Reclamation Project to the Corporation. Keeping in view the proposed project the Corporation advertised for the post of Financial Controller. At the time when the panel was prepared by the selection committee, the project had not started but since the candidate at number one of the merit panel, Sunil Kumar Sachdeva, was in addition qualified Company Secretary, it was thought appropriate by the Corporation to offer the appointment to him. By December 1990 it transpired that the project was not likely to start at least for a period of two/three years. The World Bank Mission visited India in July 1991 and conveyed that the setting up of the project was likely to be delayed considerably. Under these circumstances, the Board of Directors of the Corporation decided to abolish the post of Financial Controller till further projects were made available and entrusted to the Corporation. It was contended by Mr. Gopal Subramaniam that in the facts and circumstances of this case, the Corporation acted bona fide and was justified in not offering the appointment to the Respondent. We agree with the learned Counsel. We are of the view that the High Court fell into patent error in issuing the mandamus in the facts and circumstances of this case. This Court has authoritatively laid down that even if a vacancy is available and the employer bona fide declines to make an appointment, the candidate on the select list has no right whatsoever to claim appointment. In the present case the post was abolished by the Board of Directors in the year 1991. Shiv Narain Gupta in fact challenged before the High Court the action of the Corporation in abolishing the post. Neither the facts of this case nor the law on the subject warranted any interference by the High Court in the writ petition filed by Shiv Narain Gupta. The constitution Bench judgment in Shankarsan Dash Vs. Union of India, was cited before the learned Single Judge of the High Court. We are constrained to say that the learned Judge failed to appreciate the binding ratio of the said judgment.

16. It is to be borne in mind that there is a difference between the term of

"Recruitment" and "Appointment", The term "Recruitment" means enlistment, acceptance, selection or approval for appointment. To put it succinctly "Recruitment" is an initial process that may lead to an eventual appointment in service. But that cannot tantamount to an appointment as per the decision in Prafulla Kumar Swain Vs. Prakash Chandra Misra and Others, .

17. Also in the decision of Usha Narawariya (Dr.) v. State of Madhya Pradesh and Anr. (1994 (1) SLR 142 AT PAGE 143).

18. The term "Appointment" means an actual act of posting of a person to a particular service.

19. A policy decision of the Government pertaining to the recruitment is not amenable to a judicial review unless the same is an arbitrary one.

20. Really speaking, the selection and approval for appointment are different process of recruitment.

21. In this connection, it is relevant for this Court to make a significant mention that the Hon''ble Supreme Court in the decision State of A.P. and Others Vs. D. Dastagiri and Others, as held under

In the absence of publication of select list, the selection process was not complete. But that as it may, even if the selection process was complete and assuming that only select list remained to be published, that does not advance the case of the Respondents for the simple reason that even the candidates who are selected and whose names find place in the select list, do not get vested right to claim appointment based on the select list. The State Government had a right to take a policy decision either to have prohibition or not to have prohibition in State. If pursuant to a policy decision taken to impose prohibition in the State there was no requirement for the recruitment of Constables in the Excise Department, nobody can insist that they must appoint the candidates as Excise Constables. It is not the case of the Respondents that they must appoint the candidates as Excise constables. It is not the case of the Respondents that there was any mala fides on the part of the Appellants in refusing the appointment to the Respondents after the selection process was complete. The only claim was that the action of the Appellants, in not appointing the Respondents as Excise constables, was arbitrary. In the light of the facts, when it was open to the Government to take a policy decision, the Respondents cannot dub the action of the Respondents as arbitrary, particularly, when they did not have any right as such to claim appointments. In the absence of selection and publication of select list, mere concession or submission made by the Government Pleader on behalf of the Appellant State that the cases of the Respondents would be considered for appointment in the existing vacancies cannot improve the case of the Respondents. Similarly, such a submission cannot confer right on the Respondents, which they otherwise did not have.

22. Also, this Court points out the decision of Hon''ble Supreme Court in Tamil

Nadu Education Department Ministerial and General Subordinate Services Association and Others Vs. State of Tamil Nadu and Others, , wherein the Hon"ble Supreme Court in paragraph 16 to 18 is observed as follows:

16. Aware of our jurisdictional limitations we do not agree that the Court can analyse such minutiae to fault the policy and quash the order of Government i.e.G.O. No. 1968. For argument"s sake, let us assume that there is a volte face on the part of the Government in shifting its stand in the matter of computation of seniority with reference to length of service. Surely, policy is not static but is dynamic and what weighed with the Government. When panchayat institutions were amalgamated with the District Board institutions might have been given up in the light of experience or changed circumstances. What was regarded as administratively impractical might, on later thought and activist reconsideration, turn out to be feasible and fair. The Court can not strike down a G.O., or a policy merely because there is a variation or contradiction. Life is sometimes contradiction and even inconsistency is not always a virtue. What is important is to know whether mala fides vitiates or irrational and extraneous factor fouls. It is impossible to maintain that the length of service as District Board employees is irrational as a criterion. Let us assume for argument"s sake that the mode of selection by the District Boards is not as good as by the Public Service Commission. Even so it is difficult to dislodge the Government"s position that the teachers with mostly the same qualifications, discharging similar functions and training similar students for similar examinations, cannot be equated from a pragmatic angle without being condemned as guilty of arbitrariness.

17. Sri Govind Swaminathan drove home the point that in some cases even a few hundred "A" wing members have been passed over by some one in the "B" wing far junior to them. Once the principle is found to be rational the fact that a few freak instances of hardship may arise on either side cannot be a ground to invalidate the order or the policy. Every cause claims a martyr and however unhappy we be to see the seniors of yesterday becoming the juniors of today, this is an area where absent arbitrariness and irrationality, the Court has to adopt a hands-off policy.

18. The "B" wing members complain that they have really suffered by being denied what is due to them on account of length of service in all these years after 1970. The boot is on the other leg, they lament. Probably, the injustice of the past, when suddenly set right by the equity of the present, puts on a molested mien and the beneficiaries of the status quo cry for help against injustice to them. The law, as an instrument of social justice, takes a longer look to neutralise the sins of history. But that as it may, judicial power cannot rush in where even administrative feats fear to tread.

23. It is not in dispute that the Petitioner"s name finds a place in Serial No. 8 of the Second Respondent/Tahsildar proceedings, dated 16.04.2007 as one selected for the post of Village Assistant along with seven others. The learned Counsel for the Petitioner submits that the Petitioner"s name has been selected as one of the

candidates for the post of Village Assistant has not been cancelled so far. However, the Government has issued instructions, in G.O. Ms. No. 85, dated 30.03.2007 which was received by the Second Respondent on 24.05.2007 as per the said instructions for filling up vacancy in any employment in any Department, the ratio of 1:1 shall be followed in regard to the sponsoring of candidates as per seniority of registration, who are in the live register. Subsequently, on 08.08.2007, the Government issued G.O. Ms. No. 429, ordering for the recruitment of Village Assistants from the candidates sponsored by the Employment Exchange as per seniority of registration, who are in the live register in the ratio of 1:5. The Third Respondent sent the list by sponsoring the candidates in the ratio of 1:5 on 20.08.2007 and interview letters were issued on 21.08.2007 in the interview to be held on 30.08.2007. Only because of the revised instructions issued by the Government, the name of the Petitioner was not found in the list sent by the Third Respondent. Moreover, the Petitioner failed to renew his registration and his registration was transferred to the dead register on the date of sponsoring of list to the post of Village Assistant to the Tahsildar, Kulithalai. In short, the Petitioner's name was not on the live register. Earlier, his registration was alive when the Second Respondent notified 8 posts of Village Assistant during April 2007 and therefore his name was sponsored to the Second Respondent for the post of Village Assistant. The Second Respondent/Tahsildar had cancelled the vacancies due to administrative reasons. When the Second Respondent/Tahsildar again notified 8 vacancies of Village Assistant on 20.08.2007 and made a request to sponsor the candidates in the ratio of 1:5 and when the eligible list of candidates were sent on 20.08.2007 as per the notification, the Petitioner failed to renew his Employment card and therefore his name was transferred to the dead register and his registration was not on the live register on the date of submission of candidates for the post of Village Assistant and he renewed his registration on concession on 30.08.2007. The Petitioner filed the present Writ Petition on 28.08.2007 before the registry. After filing of the Writ Petition, he renewed his registration on concession on 30.08.2007. As stated earlier, his name was not on the live register on the date of sponsoring of the candidates for the post of Village Assistant as his registration was transferred to the dead register.

24. As far as the present case is concerned, the proceedings of the Second Respondent dated 16.04.2007 addressed to the Revenue Divisional Officer, Kulithalai has not been approved. Merely, because the Petitioner's name in the Second Respondent proceedings dated 16.04.2007 had found a place in the selection list and when the same was not approved by the Revenue Divisional Officer, the Petitioner does not get any vested right. When the real position is that the Government had issued G.O. Ms. No. 489 dated 08.08.2007, with regard to the recruitment of Village Assistants from the candidates sponsored by the Employment Exchange as per seniority of the Registration, who are in the live register in the ratio of 1:5 and when the Third Respondent sent list on 20.08.2007, based on which interview letter was sent to those sponsored by the

Third Respondent on 21.08.2007 for the interview to be held on 30.08.2007, the Petitioner's name was not to be found in the list of the Third Respondent. Infact, the selection and approval for appointment are different process of recruitment. Empanelling in a selection list of a candidate does not clothe the Petitioner with any Legal Right. One cannot ignore a vital fact that when selection list has not been published, recruitment is not completed the Petitioner does not get vested right to claim Approval of his Selection for the post of Village Assistant as per proceedings of the Second Respondent in Na. Ka. No. A5/452/2007 dated 16.04.2007 on par with the other selected candidates. It is relevant for this Court to point out that the Third Respondent in its counter in paragraph 3 in other things observed that these vacancies were cancelled by the Tahsildar, Kulithalai, due to administrative reasons. In short, the selected person does not get any vested right or indefeasible right to claim the appointment even if the selection process was completed and only the select list remind to be published. But only a policy decision was taken by the Government to cancel the recruitment. The same could not be termed as an arbitrary or discriminatory one as opined by this Court.

25. The Petitioner had not challenged G.O. Ms. No. 429 dated 08.08.2007, wherein the ratio 1:5 was prescribed by the Government in regard to the recruitment of Village Assistants from the candidates sponsored by the Employment Exchange as per the seniority of the candidate who are in the live register. The policy decision of the Government regarding the recruitment is not amenable to a judicial review unless the same is arbitrary one in law. The true position is that there is no right to the post unless the selection is finalised. A selection list once made does not exist for ever. It gets exhausted on completion of selection process which was held pursuant to a particular advertisement or invitation. A mere recommendation in respect of selected candidates does not give rise to any legitimate expectation for the candidates if the name is removed from the select list because of the policy decision to revise the number of vacancies. The same is not a arbitrary or discriminatory one.

26. Looking at from any angle and on consideration of the entire facts and circumstances of the present case, this Court comes to an resulted conclusion that the Petitioner has not challenged G.O. Ms. No. 429 dated 08.08.2007 and also his name on the date of sponsoring of list was transferred to the dead register by the Third Respondent and he only renewed his registration on concession on 30.08.2007. In short, his registration was not on the live register on the date of submission of candidates for the post of Village Assistant. When the earlier vacancies were cancelled by the Second Respondent/Tahsildar due to administrative reasons, the Petitioner cannot seek a relief in directing the First Respondent to approve his selection as Village Assistant as per proceedings of the Second Respondent, dated 16.04.2007 on par with other selected candidates. Viewed in that perspective, the Writ Petition filed by the Petitioner sans merits and accordingly fails.

27. In the result, the Writ Petition is dismissed, leaving the parties to bear their own costs. Consequently, connected Miscellaneous Petition is closed.