

(2013) 04 MAD CK 0280

In the Madras High Court

Case No : Writ Petition No. 8141 of 2013

S. Arokiya Selva Ramesh

APPELLANT

Vs

Principal Secretary to Government and Another

RESPONDENT

Date of Decision : 08-04-2013

Acts Referred:

Citation : (2013) 5 MLJ 298

Hon'ble Judges : N. Paul Vasanthakumar, J;K.N. Basha, J

Bench : Division Bench

Advocate : S. Prabhakaran for P.S. Amalraj and T.P. Senthilkumar, for the Appellant; Sanjay Gandhi, Additional Government Pleader and R. Tholgappian, for the Respondent

Final Decision : Disposed Off

Judgement

K.N. Basha, J.—The petitioner has come forward with this petition seeking for the relief of writ of mandamus directing the respondents to give him appointment as a Civil Judge in the Tamil Nadu Judicial Service. Mr. S. Prabhakaran, learned counsel for the petitioner, would contend that the petitioner had succeeded in the written examination conducted for the Civil Judge in the Tamil Nadu State Judicial Service and thereafter, he was called for the interview, i.e., viva-voce and ultimately, he was selected by the High Court. However, his name was omitted in the Government Order in G.O. (4D) No. 71, Home (Courts-I) Department, dated 10.9.2012. The learned counsel would further contend that subsequently a notice was issued by the second respondent in R.O.C. No. 9/Recrt.Cell/2012, dated 16.10.2012, calling upon the petitioner to show cause as to why his selection for the post of Civil Judge Junior Division should not be cancelled for his involvement in the cases in C.C. Nos. 287 and 288 of 2012 on the file of Judicial Magistrate No. II, Madurai. It is submitted that a reply was given by the petitioner for the said notice dated 20.10.2012. The learned counsel for the petitioner would contend that in the reply, it is stated by the petitioner that he had been falsely implicated in those two cases and he had been ultimately discharged by the

order dated 21.5.2012 passed by the learned Judicial Magistrate No. II, Madurai. It is submitted that the petitioner appeared for the interview only on 29.5.2012, which is subsequent to his discharge. The learned counsel also submitted that though the petitioner was implicated in yet another case in Crime No. 200 of 2004, he was acquitted in that case as per the judgment dated 22.9.2011 passed by the learned Judicial Magistrate No. II, Madurai, in C.C. No. 663 of 2004. The learned counsel would contend that in view of the same, the petitioner is entitled to seek the relief of selection and appointment to the post of Civil Judge (Junior Division).

2. We heard Mr. Sanjay Gandhi, learned Additional Government Pleader for the first respondent and Mr. R. Tholgappian, learned counsel appearing for the second respondent.

3. It is submitted by the learned counsel for the second respondent that while the application was submitted by the petitioner on 8.2.2012, it is clearly stated in Column No. 16 for the question "Whether the applicant is involved/convicted in any case", as "Yes". But unfortunately due to inadvertence, the Scrutiny Committee missed to note the said answer given in column No. 16 and as a result, he was allowed to sit for the examination as well as allowed to appear for the oral interview even though the similarly placed persons have been disqualified to sit for the examination. The learned counsel for the second respondent would further submit that in view of the same, the notice was served on the petitioner properly and after receiving the reply, a communication was sent for recalling the selection order dated 16.10.2012 and 21.11.2012 based on which, the Government passed the order in G.O. (4D) No. 13, Home (Courts-I) Department, dated 13.3.2013 removing the name of the petitioner appearing against Sl. No. 50 in the approved list of candidates selected for appointment as Civil Judge (Junior Division) in the Tamil Nadu State Judicial Service for the year 2009-2012, with immediate effect. The said order was also communicated to the petitioner on 3.4.2013.

4. Mr. Sanjay Gandhi, learned Additional Government Pleader appearing for the first respondent, while reiterating the same submissions made by the learned counsel for the second respondent, contended that in view of the disqualification of the petitioner, on the ground that he himself stated that he had involved in the criminal cases, he has not been selected and his name was removed from the approved list as against Sl. No. 50 as per G.O. (4D) No. 13, Home (Courts-I) Department, dated 13.3.2013.

5. We have given our careful and anxious consideration to the rival contentions put forward by either side and perused the entire materials available on record including the notice issued by the second respondent and the explanation submitted by the petitioner dated 20.10.2012 as well as the xerox copy of the application submitted by the petitioner dated 8.2.2012 and the Government Order in G.O. (4D) No. 13, Home (Courts-I) Department, dated 13.3.2013.

6. The fact remains that the petitioner has fairly stated in the application dated 8.2.2012 submitted for the written examination for the post of Civil Judge in Column No. 16 for the question "Whether the applicant is involved/convicted in any case", as "Yes". Therefore, there is no dispute about the involvement and implication of the petitioner in criminal cases at the time of submission of application. However, it is seen that before the date of interview which was held on 29.5.2012, the petitioner has been discharged from the criminal cases as per the order dated 21.5.2012 passed by the learned Judicial Magistrate No. II, Madurai, in CrI. M.P. Nos. 3384 and 3383 of 2012 in C.C. Nos. 287 and 288 of 2012 and ultimately, the petitioner had also attended the interview and he was selected by the High Court for the post of Civil Judge. It is also fairly brought to the notice of this Court by the learned counsel for the petitioner that the petitioner has also been implicated in yet another case in Crime No. 200 of 2004 and in C.C. No. 663 of 2004 the learned Judicial Magistrate No. II, Madurai, acquitted the petitioner from that case by the judgment dated 22.9.2011.

7. It is very unfortunate to note that due to inadvertence the Scrutiny Committee had missed to note the categorical answer given by the petitioner in Column No. 16 to the effect that he had involved in criminal cases. It is to be stated that the similarly placed persons, who have been involved or implicated in a criminal case at the time of submission of the application, have been disqualified and they have not been allowed to sit for the written examination and as such, this Court cannot adopt a different yardstick for this petitioner on the basis of his disclosure in involvement of criminal case and the subsequent discharge.

8. This aspect is also clearly and categorically stated in the show cause notice issued by the second respondent dated 16.10.2012 and the petitioner was also given an opportunity to submit his reply and his reply was also considered and ultimately, the Government/first respondent has taken the decision to remove the name of the petitioner against Sl. No. 50 in the approved list of candidates selected for appointment as Civil Judge (Junior Division) in the Tamil Nadu State Judicial Service for the year 2009-2012, with immediate effect and passed a Government Order to that effect in G.O. (4D) No. 13, Home (Courts-I) Department, dated 13.3.2013.

9. In view of the above said factors, it is made clear that if the petitioner has not been involved or implicated in any other incident, there is absolutely no bar for him to compete for future selection. With the above observation, this petition is disposed of. However, there will be no order as to costs.