

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 20/08/2014

DATED:29/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.37231 of 2007

1.A.Kalai Selvi
2.B.Baskaran
3.K.Karuppusamy
4.C.Govindaraju
5.V.Amutha
6.K.Murugan

... Petitioners

Vs.

1.The Tahsildar,
Vridhachalam Taluk,
Cuddalore District.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

सत्यमेव जयते

... Respondents

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Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents to permit the petitioners to join duty with consequential benefits as Village Assistants in the Villagers in which the Petitioners have been appointed and posted as Village Assistants by orders of Tahsildar, Vridhachalam in न.क.अ/3/15127/2007 dated 30.04.2007.

For Petitioners : Mr.S.Krishnaswamy

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The short facts of the case are as follows:

The petitioners submits that they were selected as Village Assistants in Virudachalam Taluk in Cuddalore District. All of them were also appointed as Village Assistants in Villages allocated to each of them. But all of them were not permitted to join duty till this day. All of them have made representations, to the respondents without any effect. The petitioners further submit that they had registered in the Employment Exchange seeking employment long ago. Based on their Seniority / Priority of Registration in Employment Exchange, they were sponsored by the Employment Officer for being considered and selected as Village Assistants in Virudachalam Taluk in Cuddalore District. The petitioners further submit that the Educational Qualification prescribed for the post of Village Assistants was (i) To Speak, read and write Tamil; (ii) Good Physical and (iii) Riding Cycle in Village Roads. The age should be below 40. The petitioners further submit that they had the prescribed qualification. They were interviewed and tested by the authorities.

2.The petitioners further submit that they were selected among others as they had the required qualification and fared well in the Test. They were issued appointment orders posting them in villages, where the posts of Village Assistants were vacant.

S.No.	NAME	PLACING OF POSTING
1.	S.KALAI SELVI	VILLAKKAPPADI VILLAGE Virudachalam Taluk
2.	K.MURUGAN	PERUVARAMBUR VILLAGE Virudachalam Taluk
3.	K.KARUPPUSAMY	KEERAMBUR VILLAGE Virudachalam Taluk
4.	B. BHASKAR	PERUNTHURAI VILLAGE Virudachalam Taluk
5.	V.AMUDHA	THIRUPPAYAR VILLAGE Virudachalam Taluk
6.	C.GOVINDARAJU	KEERAMANGALAM VILLAGE Virudachalam Taluk

3.The petitioners further submit that as soon as they received the appointment orders posting them in respective villages as Village Assistants, they reported for duty on 06.05.2007 in the office of the Tahsildar, Virudachalam. They had also reported before the concerned Village Administrative Officer. They were not permitted to join duty. They were asked by the Tahsildar orally to contact him after 30 days. They contacted the Tahsildar after 30 days. The Tahsildar asked them again to contact him after 60 days. They contacted the Tahsildar as per his directions. No reply was given. They tried to meet the District Collector of Cuddalore on 22.09.2007. They were not allowed to see him. The petitioners further submit that they wrote individually a representation to the respondents on 03.10.2007 and sent it by Registered Post, but there was neither any reply nor were they permitted to join duty. Hence, this writ petition.

4.The first respondent has filed a counter affidavit and submits that the Government in their G.O.No.787 Rev.(service-1) Dept. dated 06.12.2006 and the Special Commissioner and Commissioner for Revenue Administration, Chennai in his letter No.7919/2006 dated 11.12.2006 have issued instruction to fill up the posts of 10 village Assistants which were vacant in Vridhachalam Taluk, Cuddalore District through Employment Exchange. The first respondent had addressed the District Employment Officer, Cuddalore requesting him to send list of eligible candidates for filling up the posts of 10 Village Assistants in Vridhachalam Taluk as per norms. The Employment Officer, Cuddalore has sponsored 168 candidates at the ratio 1:20. The first respondent has sent intimations to 168 candidates for interview. Out of 168 candidates, only 102 candidates have attended for interview. As per the instruction and directions given in the G.O.No.521, Revenue Department dated 17.06.1998 and G.O.No.152 Public and Administrative reforms (C Service) department dated 18.09.2006 and the G.O.No.177 Administrative reforms (Service-1) department dated 11.09.2000, interview has been conducted and 10 eligible candidates have been selected for the appointments of the posts of Village Assistants on the basis of communal rotation and priority and orders issued in this office proceedings No.A3/15127/2006 dated 30.04.2007. The appointment orders have been dispatched to the selected candidates on 03.05.2007 by registered post.

5.The first respondent further submits that in the meantime, on the instructions of the Joint Commissioner for Revenue Administration, Chennai in his letter No.RA.2(2) 79191/2006 dated 04.05.2007, a phone message of the Collector, Cuddalore has been received from the Revenue Divisional Officer, Vridhachalam and thus, the further action on the orders issued appointing 10 Village Assistants have been withheld.

6. The first respondent further submits that the Government in their G.O.No.429 Revenue (Service 8(i) Dept.) dated 08.08.2007 have directed to fill up the posts of Village Assistants through Employment

Exchanges at the ratio 1:5. In this circumstances, the proceedings issued in this office No.A3/15127/2006 dated 30.04.2007 appointing 10 employment candidates as Village Assistants in Virudhachalam Taluk have been cancelled in this office proceedings No.A3/15127/2006 dated 27.08.2007, since the Government have directed to fill up the posts of Village Assistants at the ratio 1:5. The fact has also been intimated to the persons concerned on 28.08.2007. The petitioner Tmt.Kalaiselvi on her behalf and on behalf of five others has filed an affidavit before this Court in W.P.No.37231 of 2007 only after canceling the orders in which they have been appointed as Village Assistant.

7.The first respondent further submits that the petitioner Tmt.Kalaiselvi and five others have been sponsored by the District Employment Officer, Cuddalore, for being considered and selected for the posts of Village Assistant, in Virudhachalam Taluk in the Vacant places at the ratio 1:20. They have been interviewed and selected and orders issued appointing them as Village Assistants in the Villages where the posts of Village Assistants were vacant on the basis of communal rotation and priority, in this office Proceedings A3/15127/2006 dated 30.04.2007 and orders have also been dispatched to them on 03.05.2007 by registered post. Since the phone message of the Collector, Cuddalore received from the Revenue Divisional Officer, Virudachalam on the instruction of the Joint Commissioner, Revenue Administration, Chennai in his letter No.RA (2)7919/2006 dated 04.05.2007, the further actions on the orders issued appointing 10 Village Assistants including the petitioners have been withheld.

8.The first respondent further submits that since the Government have issued instructions in their G.O.No.429 Revenue (Service (i) Department dated 08.08.2007 to fill up the posts of Village Assistants at the ratio 1:5, the orders already issued appointing 10 village Assistants including the petitioners in this office proceeding Ref.No.A3/15127/2006 dated 30.04.2007 have been cancelled in this office Proceedings A3/15127/2006 dated 27.08.2007 and the fact has also been intimated to the incumbents properly. It is submitted that the representations of the petitioners have been received only after canceling the appointment orders. The petitioners also have filed an affidavit before this Court in W.P.No.37231 of 2007 only after the cancellation of the orders, appointing them as Village Assistants. Hence, the respondents entreat the Court to dismiss the writ petition.

9. The highly competent counsel Mr.S.Krishnaswamy appearing for the petitioners submits that the petitioners had been selected as Village Assistants in Virudhachalam Taluk by the first respondent herein / The Taluk Tahsildar, Virudhachalam Taluk by his proceedings Na.Ka.A3/15127/2006, dated 30.04.2007. Further, the petitioners have registered their names in the Employment Exchange. Based on their seniority, they were sponsored by the Employment Officer. All the petitioners have possessed required qualifications for the said post.

The first respondent had duly conducted an interview and verified the testimonials of the respective petitioners. The petitioners were issued appointment orders for the said post to the various Villages in the post vacant. Pursuant to the said appointment orders, the petitioners have reported for duty on 06.05.2007 in the Office of the Tahsildar, Virudhachalam. Thereafter, they have reported before the concerned Village Administrative Officer. At that time, the Tahsildar has not permitted the petitioners and asked them orally to contact him after a period of 30 days. Accordingly, the petitioners have contacted the Tahsildar immediately on completion of 30 days. Again, the Tashdilar asked the petitioners to contact him after 50 days. Accordingly, all the petitioners had contacted the Tahsildar / first respondent herein who did not mention anything. Subsequently, the petitioners / selected candidates for the post of Village Assistants have tried to meet the District Collector, Cuddalore District on 22.09.2007 to reveal the actual position and their grievances on 22.09.2007, but the District Collector have not allowed them to meet him.

10. The highly competent counsel appearing for the petitioners further submits that the aggrieved petitioners had sent an individual representation to the respondents on 03.10.2007 by Registered Posts with acknowledgment dues. After receipt of the said representations, there was no reply from the respondents. The respondents have not given any valid reasons by way of written communication or oral communication. However, the appointment orders dated 30.04.2007 is existing and suitable for compliance since the posting order is not cancelled. The highly competent counsel further submits that all the petitioners are belonging to the poor sections of the society. The appointment order was issued in the year 2007 and after a lapse of 9 years, they were not permitted to join duty and as such, the respondents have violated the principles of natural justice. Hence, the highly competent counsel entreats the Court to give suitable direction to the respondents to permit the petitioners to join duty as Village Assistants in the respective villages as per the appointment order dated 30.04.2007. The highly competent counsel further submits that there were 10 vacancies for the post of Village Assistants in Virudhachalam Taluk. The Employment Exchange sponsored 168 candidates and out of them 102 candidates had attended the interview. Out of them 10 candidates were selected including the petitioners herein after following necessary reservation and company rotation. Under the circumstances, the third respondent had informed the District Collector and asked him to withhold the order of appointments by phone message without expressing any valid reasons and as such, the petitioner's fundamental rights and personal rights have been affected. After issuing the appointment orders, the petitioners have been patiently waiting to join duty. As such, the petitioners are put into hardship and mental agony. The family members of the selected candidates are also depending upon the petitioners' job and income.

11. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the respondents submits that the Special Commissioner, Revenue Administration had issued a G.O. to fill up the posts of 10 Village Assistants which were vacant in Virudhachalam Taluk and the mode of selection through the Employment Exchange. The Employment Officer has sponsored 168 candidates at the ratio of 1:20. Out of the said candidates, 102 candidates have attended the interview. Accordingly, interview has been conducted and 10 eligible candidates have been selected for appointment in the posts of Village Assistants on the basis of communal rotation and priority. The appointment orders have been dispatched to the selected candidates on 03.05.2007 by the Registered Posts. Under the circumstances, the Joint Commissioner of Revenue Administration, Chennai had sent a phone message to the District Collector on 04.05.2007, the same in turn was communicated to the Revenue Divisional Officer. As per the phone message, the appointment of 10 Village Assistants have been withheld. As per the Government Order in G.O.Ms.No.429, dated 08.08.2007, it has been directed to fill up the post of Village Assistants through the Employment Exchange at the ratio of 1:5. therefore, the appointment order dated 30.04.2007 has been cancelled by the Office Proceedings of the first respondent dated 27.08.2007. The same was communicated to the petitioners. The highly competent counsel further submits that the selections were made on the basis of communal rotation and priority. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition.

12. From the above discussions, this Court is of the view that:-

(i) The Special Commissioner and Commissioner of Revenue Administration, Chennai had issued a G.O.Ms.No.787, dated 06.12.2006 and instructed to fill up the post of 10 Village Assistants, which were vacant in Virudhachalam Taluk. Accordingly, the first respondent had addressed to the District Employment Officer, Cuddalore, requesting him to send a list of eligible candidates for filling up the posts of 10 Village Assistants at Virudhachalam Taluk. As per the G.O. issued by the Commissioner of Revenue Administration, the first respondent herein / Tahsildar have conducted interview on 28.04.2007 and appointment orders were made on 30.04.2007 and the same has been dispatched to the selected candidates on 03.05.2007 by the Registered Post. The mode of selection and appointment orders have been made as per G.O.Ms.No.787, dated 06.12.2006 issued by the Special Commissioner and Commissioner for Revenue Administration, Chennai. Therefore, the appointment order dated 30.04.2007 is fit for compliance.

(ii) All the candidates are in possession of the requisite qualifications, besides the mode of selection was on the basis of communal rotation and priority and as such, there is no shortcomings or lapse or any other irregularity or illegality. Therefore, the selection and appointment is a valid one.

(iii) The respondents have stated in their counter statement that the appointment orders have been cancelled through the first respondent's proceedings dated 27.08.2007. Before cancelling the said order, the first respondent has to provide an opportunity to the petitioners and only after securing their explanation, pass a final order. In the instant case, the cancellation proceedings was issued without notice to the petitioners which is in violation of the principles of natural justice. Therefore, the cancellation order is not sustainable under law. As such, the said order is not fit to be operated upon any further.

(iv) The appointment orders have been issued on 03.05.2007 and the selected candidates are in painful anticipation to join duty, but it is pending for the past 9 years. As such, the selected candidates are placed into irreparable hardship and suffering since they are not able to join duty as a Village Assistants even though they belong to the weaker section of the society.

(v) The G.O.Ms.No.429, Revenue Department, dated 08.08.2007 reveals that the post of Village Assistants are to be filled through Employment Exchange at the ratio of 1:5. This G.O. had been issued after selection and appointment orders were issued to the eligible candidates. Therefore, the mode of selection is in the order as per G.O.Ms.No.787, Revenue Department, dated 06.12.2006. Hence, the first respondent / Taluk Tahsildar's mode of selection of the petitioners is appropriate and suitable for operation.

13. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers and the view of this Court listed as (i) to (vi) above, the cancellation order in the Office Proceedings A3/15127/2006, dated 27.08.2007 is set-aside and the appointment order dated 30.04.2007 issued by the first respondent is confirmed. As such, this Court directs the respondents especially, the first respondent herein / The Taluk Tahsildar, Virudhachalam, to issue a fresh and appropriate order to the petitioners herein within a period of 15 days through a special messenger to the petitioners herein in order to allay their constant fears and permit them under appropriate direction to join duty, especially, considering the petitioners age advancement during the last 9 years since the case has been kept in abeyance. The respondents are not permitted to file an appeal to go against this Court's order. Accordingly, the above writ petition is ordered. There is no order as to costs.

Sd/-

Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

v s / r n s

<https://hcservices.ecourts.gov.in/hcservices/>

To

1.The Tahsildar,
Vridhachalam Taluk,
Cuddalore District.

2.The District Collector,
Cuddalore District,
Cuddalore.

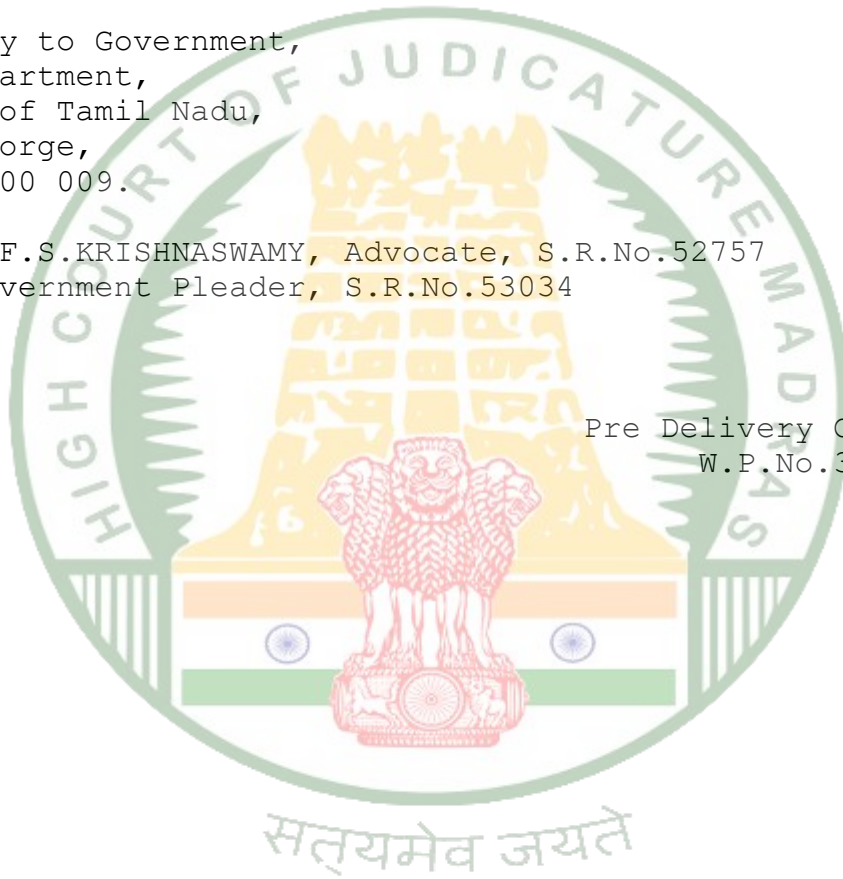
3.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

+6cc to Mr.PROF.S.KRISHNASWAMY, Advocate, S.R.No.52757

+1cc to the Government Pleader, S.R.No.53034

Pre Delivery Order made in
W.P.No.37231 of 2007

(CO) PPA
JD(07/10/2015)



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