

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No. 30272 of 2008 and

M.P.Nos.1 & 2 of 2008

Eswari

...Petitioner

-Vs-

1. The District Collector,  
Kancheepuram District.

2. The Revenue Divisional Officer,  
Chengalpattu.

3. The Tahsildar,  
Chengalpattu Taluk.

4.Mr.Premala

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of declaration declaring the selection of the 4th respondent in the nature of writ declaring the selection of the 4th respondent as village assistant to Melamaiyur Village, Chengalpattu Taluk, Kancheepuram District as null and void and consequently, direct the respondents 1 to 3 to select the petitioner for post of village Assistant to Melamaiyur village, Chengalpattu Taluk Kancheepuram District.

For Petitioner : Mr.A.Ramalingam

For Respondents : Mr.P.Sanjay Gandhi, AGP

O R D E R

The prayer in the writ petition is for a declaration declaring the selection of the 4th respondent as Village Assistant to Melamaiyur Village, Chengalpattu Taluk, Kancheepuram District as

null and void and consequently, direct the respondents 1 to 3 to select the petitioner for post of Village Assistant for that village.

2. The grievance of the petitioner is that for the post of Village Assistant in the said village, the petitioner was called for interview by the third respondent. He had all the required qualifications as per G.O.Ms.No.521 dated 17.06.1998. In spite of the said fact, the fourth respondent was selected and was appointed. The learned counsel for the petitioner heavily relied upon clause 7 (c) of the said G.O.Ms.No.521 which says that the person appointed to the post shall belong to the Village to which he is appointed or the adjoining Village if no suitable candidate is available from that Village.

3. The learned counsel for the petitioner further submits that as the fourth respondent belongs to some other village, she should not have been selected and appointed and the petitioner alone should have been selected as she belongs to the same village.

4. Per contra, the learned Additional Government Pleader appearing for respondents 1 to 3 would submit that as per the interview call letter of July 2008 issued by the third respondent, the four documents as mentioned there in, such as, Employment Exchange Registration card, Educational Qualification Certificate, Community Certificate and Nativity Certificate and also Family card or Voter ID card alone were required to be produced. The learned Additional Government Pleader would further submit that apart from the production of these documents, suitability of the candidate has to be assessed by the appointing authority, namely, the third respondent, who after having assessed the relative merit and suitability of the candidates including the petitioner as well as the fourth respondent, had selected and appointed the fourth respondent to the post of Village Assistant and therefore, such selection based on the *inter se* merit and suitability as assessed by the appointing authority cannot be found fault with by the petitioner by mere apprehension and surmises.

5. Heard both sides.

6. Insofar as clause 7(c) of G.O.Ms.No.521 dated 17.06.1998, Revenue (Ser7(1) Department), it says that the candidate for the post of Village Assistant can be from the same village possibly and if no suitable candidate is available from that village, suitable candidate can be taken from other village and can be appointed. Therefore, the suitability of the candidate can very well be decided by the appointing authority even under clause 7(c) of the said Government Order and that is what had been done by the third respondent as rightly pointed out by the learned Additional Government Pleader.

7. Be that as it may, the appointment said to have been made in the year 2008 and the said order of appointment has not been challenged in this writ petition except with the prayer aforesaid by way of declaration and this Court is of the view that such a prayer of declaration of selection or appointment of a person cannot be accepted.

8. At this juncture, the learned counsel for the petitioner would submit that in the year 2009, i.e. 02.02.2009, the petitioner has made a request to the third respondent after coming to know that there were number of vacancies in the post of Village Assistant for number of villages in the districts available and since the petitioner belongs to scheduled case community and already 35 years, her suitability can be considered and she can be appointed in any of the place where the vacancy is available and that representation submitted to the third respondent by the petitioner on 02.02.2009 has not been considered and any decision is yet to be taken, according to the learned counsel for the petitioner.

9. Per contra, the learned Additional Government Pleader submits that there is no proof shown that such a representation has been submitted to the third respondent.

10. At any rate, since the petitioner is a jobless person belonging to a village and hailing from oppressed class and therefore, her qualification and suitability, if it is otherwise acceptable within the norms of the Government Order, can also be considered in any of the future vacancies for the post of Village Assistant in the nearby villages of the petitioner of course, along with other suitable candidates.

11. Therefore, in view of the aforesaid facts and circumstances, this Court is of the view that a direction can be given to the third respondent to consider the representation given by the petitioner dated 02.02.2009 regarding the employment/appointment for the post of Village Assistant under the jurisdiction of the third respondent and the same can be considered of course, on merits and in accordance with law, strictly within the parameters as has been prescribed in the relevant Government Orders and the rules if any, governing the services of such persons and a suitable decision can be taken, whenever vacancy arises for the said post under his jurisdiction. Since the learned Additional Government Pleader disputes the receipt of the representation dated 02.02.2009, the petitioner is directed to send a copy of the same by Registered Post with acknowledgment due to the third respondent within one week from the date of receipt of a copy of this order.

12. With this observation and direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-  
Assistant Registrar (CS- )

/TRUE COPY/

Sub-Assistant Registrar

To

1. The District Collector,  
Kancheepuram District.

2. The Revenue Divisional Officer,  
Chengalpattu.

3. The Tahsildar,  
Chengalpattu Taluk.

+1 CC Mr.A.Ramalingam Advocate SR.No.59103

+1 CC Government Pleader SR.No.59644

W.P.No. 30272 of 2008

VGI

MSI 04/11/2016

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