

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

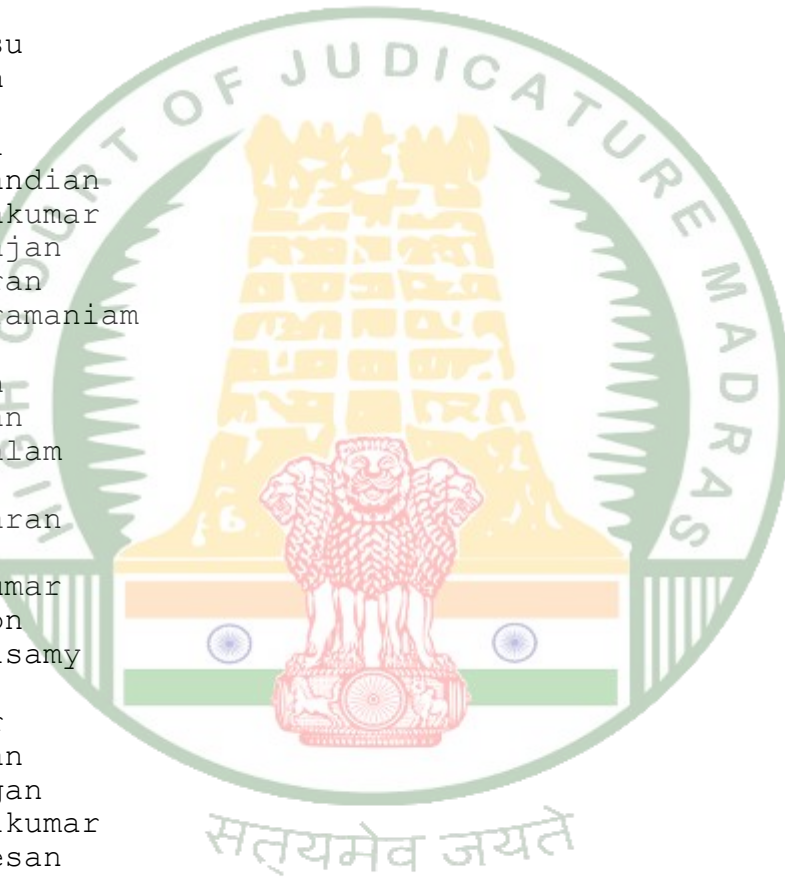
Writ Petition Nos.25152 to 25154 of 2016
and
W.M.P.Nos.21552 to 21557 of 2016

M.Selvendran ...Petitioner in WP. No. 25152 of 2016
V.Ramakrishnan ...Petitioner in WP. No.25153 of 2016
Sri.G.Sakthivel ...Petitioner in W.P. No.25154 of 2016

-Versus-

1. The District Collector of Nagapattinam
Collectorate (Panchayat Development)
Nagapattinam.
2. The Personal Assistant to the District Collector,
(Panchayat Development) Collectorate,
Nagapattinam.
3. K.Kaliyamurthy
4. Ayyapillai
5. V.Tamilselvan
6. G.Elayakumar
7. Ayyappan
8. K.Devendiran
9. G.Murugan
- 10.K.Arivalagan
11. M.Anbalagan
12. Gunasekaran
- 13.M.Jayashankar
14. S.Barathidasan
15. R.Santhakumar
16. K.Shankar
- 17.K.Manivannan
- 18.Rajendran
- 19.K.R.Sudhakar
- 20.K.Jaishankar
- 21.K.Kalyanasundarm
- 22.M.Saravakumar
- 23.C.Jeevanandham
- 24.S.Selvakumar
- 25.J.Ramesh
- 26.S.Senthilkumar
27. M. Sekar
- 28.R.M.Subramanian
- 29.R.Chandrasekaran

- 30.V.Arunachalam
- 31.A.Kamaraj
- 32.C.Manoharan
- 33.R.Kumar
34. A.Selvam
35. V.Muthukumar
- 36.V.Senthamilselvi
- 37.T.Ravichandran
- 38.R.Madhiyalagan
- 39.Venkatesan
- 40.Sarabogi
- 41.K.Murali
- 42.Punkodi
- 43.J.Selvarasu
- 44.S.Ayyappan
- 45.M.Nataraj
- 46.Pugalendhi
- 47.Soundarapandian
- 48.A.Saravanakumar
- 49.K.Varadarajan
- 50.K.Prabakaran
- 51.R.Balasubramaniam
- 52.Lavakumar
- 53.K.Ayyappan
- 54.K.Manimaran
- 55.Thanikachalam
- 56.Palanivel
- 57.S.Gunasekaran
- 58.F.Dicasta
- 59.K.Udhayakumar
60. P.V.Lenion
61. A.Anthonisamy
62. Baskaran
63. M.Shankar
64. Devendiran
65. R.Anbalagan
66. S.Senthilkumar
67. U.Venkatesan
68. Natarajan
69. S.Udhaiyakumar
70. C.Joshphraj
71. M.Shanmugham
72. M.Sivasumar
73. R.Gunaselvam
74. R.Ramamurthy
75. Mariappan
76. G.Dhandpani
77. S.Shanmugham
78. R.Selvaraj
79. Maheswari
80. Balamurugan
81. V.Elangovan
82. K.Murugan
83. M.Sathiyabama
84. M.Ramachandran
85. R.Ramasamy



WEB COPY

- 86. R.Kandasamy
- 87. Mohan
- 88. Ravichandran
- 89. R.Ramesh
- 90. V.Gopalakrishnan
- 91. V.Vetriselvam

..Respondents in all W.P.'s

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the first respondent namely the The District Collector, (Development), Nagapattinam in Na.Ka.No.3034/Oo.Va.6/2015 dated 24.02.2016 and quash the same and consequently direct the 1st respondent namely the District Collector of Nagapattinam to revise the seniority list of Panchayat Secretaries for the year 2015 issued by the Personal Assistant to District Collector, (Panchayat Development) Nagapattinam.

For Petitioner : M/s.V.Nicholas
(in all W.P.'s)
For Respondents : Mr.A.Kumar
(in all W.P.'s) Special Government Pleader

C O M M O N O R D E R

By consent of the counsel for both sides, the above Writ Petitions are taken up for final disposal at the time of admission itself.

2. The case of the petitioners is that they were appointed as Panchayat Assistants during the year 1997. The Government of Tamil Nadu issued a notification in G.O.Ms.No.225 Rural Development (C1) Department dated 15.10.1996 appointing the President of Village Panchayat as Executive Authority of that panchayat. The Government also issued another order in G.O.Ms.No.230, Rural Development (E.5) Department dated 15.10.1996 empowering the Panchayat President to appoint part time Panchayat Assistant (now re-designated as Panchayat Secretary). Challenging the said Government Orders, the Tamil Nadu Panchayat Assistants Association represented by its President filed W.P.No.15705 of 1996. This Court, by an order dated 31.10.1996 in W.M.P.No.21545 of 1996 has granted interim stay of operation of the said Government Orders on 31.10.1996. Subsequently, the Writ Petition was dismissed as withdrawn on 26.11.1996. The petitioners allege that the respondents 3 to 91 herein have been appointed during the course of interim order granted in the Writ Petition in the year 1996. It is further stated that in the Government order in G.O.Ms.No.245 Rural Development (E.5) Department dated 04.08.1997, the age limit of 28 years was prescribed for appointment of panchayat Assistant which was subsequently relaxed in G.O.Ms.No.230 Rural Development (E.5) Department dated 15.10.1996 in so far as backward class, most backward class, schedule caste and schedule tribes are concerned and accordingly their age was fixed below 33 years.

3. It is further stated that the Personal Assistant of the District Collector (Panchayat Development) in his proceedings No.Na.Ka.No. 3038/Oo.va.6/2015 dated 25.06.2015 published the temporary seniority list of the Village Panchayat Secretaries for the year 2015. The said list was received by the office of the Block Development Officer, Kivelur on 12.08.2015 and the said list was furnished on 04.09.2015. The petitioners sent their objection petition to the said list and the same has been referred to in the proceedings of the District Collector, (Development) Nagapattinam. Therefore, it is stated that since the stay of operation of G.O.Ms.No.230, Rural Development (E.5) Department, dated 15.10.1996 was in force from 31.10.1996 to 26.11.1996, no appointment for the Panchayat Assistants could be made and should not have been made during the said period. But, the temporary seniority list of the Panchayat Secretaries published on 25.06.2015 shows that the serial numbers 8 to 29 thereof relates to those who were appointed on 1.11.1996. Likewise serial numbers 30 to 50 relates to those who were appointed on or before 25.11.1996 when the stay of the operation of the said Government Order was in force from 31.10.1996 to 26.11.1996. There could not be any appointment of Panchayat Assistants between the said period and therefore the appointment of respondents 3 to 45 (Serial Nos. 8 to 50 in the Seniority List) is not in accordance with the Rules and the same is not valid in law. The petitioners further state that the Director of Rural Development Department, Chennai in Na.Ka.No.78757/96/Va.A.Nee.1 dated 22.01.1997 informed that the Government has announced the withdrawal of W.P.No.15705 of 1996 only on 24.12.1996. Therefore, it is clear that the appointment of Panchayat Assistant if any could have been made only after 24.12.1996. But the seniority list shows that the appointment of those who are in serial numbers 51 to 89 was made for the period between 27.11.1996 and 24.12.1996. Thus the appointment of respondents 46 to 84 (Serial No.51 to 89 in the seniority list) could have been made only on or after 25.12.1996. Therefore, appointment of the respondents 46 to 84 was also not valid in law.

4. It is further stated that the age limit of 28 years as prescribed by G.O.Ms.No.230 Rural Development (E.5) Department dtd 15.10.1996 was relaxed to 33 years for the candidates of backward class, most backward class, schedule caste and schedule tribes in G.O.Ms.No.245, Rural Development (E.5) Department dated 4.8.1997. Therefore, the candidates belonging to backward class, most backward class, schedule caste and schedule tribes whose age has not exceeded 33 years could have been appointed only after 4.8.1997. But those who are included in serial numbers 93 to 96, 127, 128 and 137 i.e. the respondents 85 to 91 have exceeded the age limit of 28 years even before 04.08.1997 and the relaxation of the age to 33 years came into effect only from 04.08.1997. Thus, it is clear that the appointment of the respondents 85 to 91 who have exceeded the age limit of 28 years as on the date of their appointment is not valid in law.

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

5. It is further contended that earlier in 2010 when the

petitioners brought to the notice the defects in the seniority list, the Block Development Officer, Kilvelur in his proceedings Na.Ka.132/10/Aa.4 dated 12.03.2010 addressed to the District Collector of Nagapattinam Office of the Panchayat Development informed that one of the petitioners herein should be placed in serial number 17 in the then seniority list whereas he was placed in serial number 132. The petitioners further stated that those persons who are not eligible for appointment have been shown as seniors and placed above the petitioners in the seniority list until serial number 106. Thus, the temporary seniority list contains errors and mistakes and it has not been prepared properly that too in contravention of the Government orders and the order of stay granted by this Court on 31.10.1996. Therefore, the petitioners sent a petition dated 16.12.2015 to revise the seniority list of Panchayat Secretaries for the year 2015. By a Memo dated 11.01.2016 the first respondent informed the petitioners that after verifying the records a final decision would be taken. However in his order dated 24.02.2016, the Collector of Nagapattinam has informed that the seniority list was being published for the past 19 years and that no objection or petition was received regarding the drawal of seniority list. Therefore the petition sent by the petitioners was found to be belated and not considered. Challenging the same, the present Writ Petition is filed.

6. Heard both sides. The learned counsel for the petitioners submitted that if the respondents 3 to 91 are eschewed in the seniority list from the relevant position right from the year 1996 till today, they will be shown above the respondents 3 to 91 in the seniority list. The seniority published in the year 2015 is therefore not in accordance with law and hence prays for setting aside the same.

7. First of all, these Writ Petitions have to be dismissed on the ground of laches. The seniority list was published in the year 2010 and for the said seniority list the aggrieved persons sent their objections and the seniority list was published in the year 2015. Under those circumstances the contention of the petitioners that the respondents 3 to 91 should not be placed above them in the seniority list cannot be considered at this stage. The petitioners herein first of all were the members of the association through which they have earlier filed Writ Petition and therefore, now they are estopped from questioning the seniority list on the basis of an interim order passed by this Court in the writ petition filed by the association. The writ petition filed by the association in the year 1996 was dismissed as withdrawn and in that order, an opportunity was sought for and an opportunity was granted. In spite of the opportunity being granted, neither the association nor the individuals challenged the said order for 19 years. Secondly, when the Writ Petition was dismissed as withdrawn the interim order granted pending disposal of that writ petition will not have any force. Such an interim order granted during the pendency of the writ petition will not alter or affect the seniority list drawn by the official respondents.

In the mean time, some of the respondents have been granted age relaxation by virtue of the order passed by the Government for which the petitioners have not raised any objection for quite long time, After 19 years, the petitioners are questioning the seniority list published by the official respondents. It is needless to mention that such seniority list was drawn by the official respondents after calling for objections from the aggrieved persons. In such view of the matter, this Court is not inclined to interfere with the impugned order. Hence, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.
arr/rsh

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector of Nagapattinam
Collectorate (Panchayat Development)
Nagapattinam.
 2. The Personal Assistant to the District Collector,
(Panchayat Development) Collectorate,
Nagapattinam.
- + 1 cc to M/s.V.Nicholas, Advocate Sr 41277
+ 2 ccs to M/s.V.Nicholas, Advocate Sr 41275 & 41276
(18/11/2016)
+ 1 cc to The Govt.Pleader, Sr 41282

KR/26/10/16

WP No.25152 of 2016

सत्यमेव जयते

WEB COPY