

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.8151 of 2016

and WMP.Nos.7240, 7241 and 13175 of 2016

M.Saraswathy

.. Petitioner

vs.

1.The District Collector,
Vellore District,
Vellore.

2.The Personal Assistant to District Collector,
(Development),
Vellore District,
Vellore.

3.The Block Development Officer,
(Village Panchayat),
Wallajah Panchayat Union,
Vellore District.

4.Thiru.V.K.Vasudevan,
Panchayat Secretary,
V.C.Mottur Village Panchayat,
Wallajah Panchayat Union,
Vellore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records passed by the second respondent in Na.Ka.PC1/3039/2012 dated 11.02.216 and the consequential order passed by the third respondent in Na.Ka.A2/332/2012 dated 16.02.2016 and quash the same.

For Petitioner : Mr.S.Kamadevan
For Respondents : Mr.K.Dhananjayan,
Special Govt. Pleader for R1 and R2
Mr.R.Rajendra Narasimhan for R3
Mr.E.P.Semmiyangiri for R4

O R D E R

The prayer in the writ petition is for issuance of a Writ of Certiorari to quash the order passed by the second respondent in Na.Ka.PC1/3039/2012 dated 11.02.2016 and the consequential order passed by the third respondent in Na.Ka.A2/332/2012 dated 16.02.2016.

2. The petitioner is the President of the Narasingapuram Village Panchayat, Wallajah Panchayat Union, Vellore District and got elected in 2011 and the Government introduced the post of Panchayat Assistant (now called as Panchayat Secretary) to assist the Panchayat Presidents and as per G.O.Ms.No.175, RDLA dated 05.12.2006, the part-time panchayat clerks were brought in the time scale of pay. The Government has also issued orders in G.O.Ms.No.72, Rural Development and Panchayat Raj Department dated 09.07.2013 wherein Special Rules viz., The Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 have been framed in respect of Secretaries of Village Panchayats governing the service conditions and as per the above Rules, the appointing authority to the post of Panchayat Secretary is P.A. to District Collector and they are liable to be transferred outside the Panchayats and one Panchayat Union to another, but before making the order of transfer, consultation of the concerned Executive Authority/Panchayat President is necessary. While so, the fourth respondent, who was working in V.C.Mottur Village Panchayat, was accommodated in the petitioner's Village Panchayat without the petitioner's consultation by the second respondent and even the order of the second respondent was not served on the petitioner and the third respondent, vide communication dated 11.02.2016 directed the petitioner to permit the fourth respondent in her Village panchayat. Challenging the same, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner has drawn the attention of this Court to the Tamil nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 passed in G.O.Ms.No.72, Rural Development and Panchayat Raj (E5) Department dated 09.07.2013 and would submit that as per Rule 5 (2)(ii) no person shall be eligible for appointment to the post unless he/she is a resident of the Village Panchayat concerned

and as per Rule 11(2) Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned, Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector. Thus, relying upon Rule 11 (2), the learned counsel appearing for the petitioner submitted that all transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned and moreover the Block Development Officer is the competent authority for transferring a person within the Union and whereas in the instant case, the impugned order was passed by the second respondent without any consultation from the petitioner with regard to transfer of fourth respondent to the petitioner Panchayat and therefore, prays for setting aside the impugned orders.

4. The respondents 1 to 3 have filed respective counter affidavits. The fourth respondent has stated in its counter that he was formerly working as Secretary in V.C.Mottur Village Panchayat, Vellore District and based on a false compliant, he was implicated in a criminal case and tried in C.C.No.2/2015 under Sections 294(b) and 506(i) of IPC and under Section 3(1) (x) of the SC/ST (POA), Act and he was placed under suspension and the criminal case has also ended in acquittal. The fourth respondent would further state that during his suspension, another secretary was appointed to V.C.Mottur Panchayat and pursuant to the judgment of acquittal, he became entitled to have his service back again and since another person was already appointed in V.C.Mottur Panchayat, the fourth respondent could not avail the same place and in this situation, the second respondent, vide proceedings in Na.Ka.No.PCI/3039/2012 dated 11.02.2016, appointed the fourth respondent in the existing vacancy as Panchayat Secretary, Narasingapuram Panchayat and subsequent thereto, the third respondent also, vide proceedings in Na.Ka.A2/232/2000 dated 16.02.2016, directed the fourth respondent to join in the post of Panchayat Secretary, Narasingapuram Panchayat and now in the present writ petition, the Panchayat President, Narasingapuram suppressed the fact that the fourth respondent had joined duty on 17.02.2016 and obtained an order of interim stay on 04.03.2016 and therefore, there is no illegality in the appointment of the fourth respondent to the

petitioner Village Panchayat and prays for dismissal of the writ petition.

5. Keeping the submissions made on either side, I have gone through the entire materials available on record.

6. The main contention of the learned counsel appearing for the petitioner is that as per Rule 11(2) of the Tamil nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned, Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector, whereas in the present case, the respondents 1 and 2 have not followed any of the requirements as contemplated in the above Rules before directing the petitioner to permit the fourth respondent as Panchayat Secretary of the Village Panchayat. Therefore, the impugned order is liable to be set aside. But, in the instant case, on a perusal of records, I find that the fourth respondent had already joined service in the petitioner Panchayat, which was suppressed by the petitioner. Since the fourth respondent had already joined in the petitioner Panchayat, nothing survives for adjudication in this writ petition and this writ petition deserves dismissal.

7. In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

jvm

To

1.The District Collector,
Vellore District,
Vellore.

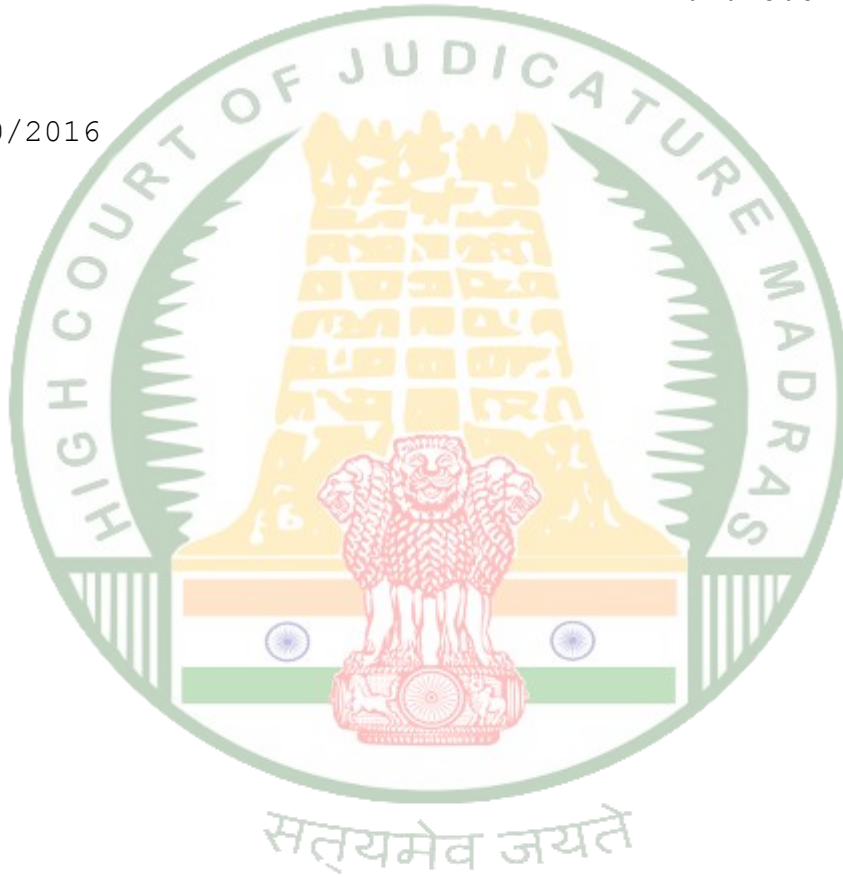
2.The Personal Assistant to District Collector,
(Development),
Vellore District, Vellore.

3.The Block Development Officer,
(Village Panchayat),
Wallajah Panchayat Union,
Vellore District.

+1 CC to Mr. S. Kamadevan, Advocate Sr.No.57585
+1 CC to Mr. E.P. Senniyangiri, Advocate Sr.No.57745
+1 CC to the Government Pleader, Sr.NO.57850

W.P.No.8151 of 2016

VD (CO)
MD : 20/10/2016



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