

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petn. No.19977 of 2006
and
M.P.No.2 of 2006

M.Arumugam ... Petitioner

-vs-

1.The District Collector,
Thiruvannamalai Sambuvarayar District,
Thiruvannamalai.

2.District Revenue Officer,
Thiruvannamalai Sambuvaravar District.

3.Revenue Divisional Officer,
Thiruvannamalai Sambuvaravar District.

4.G.Kannan

5.Registrar,

Tamil Nadu Administrative Tribunal,
Chennai-104

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records in Pa.Mu.1014/1990 dated 27.6.1990, on the file of the third respondent and quash the order dated 27.07.1990 passed by the third respondent in Pa.Mu.No.1014/90, confirmed by the first respondent in No.A4/34457/90, dated 04.01.1991 and further confirmed by the fifth respondent in T.A.No.188/1994 dated 13.01.2004.

For Petitioner : Mr.A.Immanuel

For Respondents : Mr.R.Ravichandran,A.G.P.for R1 to R3
Mr.V.Raghavachari for R4

: R5 Tribunal

JUDGMENT

(Judgment of the Court was delivered by
A.SELVAM, J)

This writ petition has been filed, under Article 226 of the Constitution of India, praying to issue a writ of certiorari, calling for the records relating to the order dated 27.6.1990, passed by the Revenue Divisional Officer, Thiruvannamalai, confirmed by the District Collector, Thiruvannamalai, by order dated 04.01.1991 and also confirmed by the fifth respondent, by order dated 13.01.2004, in T.A.No.188 of 1994, and quash the same.

2. It is averred in the petition that the petitioner has been appointed as Village Menial by virtue of an order dated 18.01.1990, passed by the Tahsildar, Thiruvannamalai and the same has been challenged before the Revenue Divisional Officer, Thiruvannamalai. The Revenue Divisional Officer has set aside the appointment order of the petitioner by way of passing the order dated 27.6.1990. Against the order passed by the Revenue Divisional Officer, the petitioner has filed an appeal before the District Revenue Officer, Thiruvannamalai. The District Revenue Officer, Thiruvannamalai, has upheld the order passed by the Revenue Divisional Officer. Against the concurrent orders passed by the Revenue Divisional Officer and District Revenue Officer, a Review has been filed before the District Collector, Thiruvannamalai, who is none other than the first respondent herein. The first respondent has dismissed the Review. Against the order passed by the District Collector, a writ petition has been filed before this Court and the same has been transferred to the Tamil Nadu Administrative Tribunal, Chennai and taken on file in T.A.No.188 of 1994 and the same has also been dismissed by the fifth respondent. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3. The learned counsel appearing for the petitioner has contended that the petitioner has been appointed as Village Menial, on 18.1.1990, by the concerned Tahsildar and the same has been challenged by the fourth respondent herein before the Revenue Divisional Officer. The Revenue Divisional Officer has cancelled the appointment order of the petitioner by virtue of the order dated 27.6.1990. The petitioner has challenged the order passed by the Revenue Divisional Officer by way of filing an appeal before the District Revenue Officer. The District Revenue Officer has upheld the order passed by the Revenue Divisional Officer and the same has been challenged before the District Collector by way of filing a review and the same has also been dismissed. Even in the order passed by the Revenue

Divisional Officer, it has been clearly mentioned about the educational qualification for the post of appointment of Village Menial and even though the petitioner has possessed of necessary qualification, the Revenue Divisional Officer has erroneously cancelled his appointment and the same has been erroneously confirmed by the District Revenue Officer as well as District Collector and Tribunal and therefore, the order passed by the Revenue Divisional Officer as well as the orders passed by the District Revenue Officer, District Collector and the Tribunal are liable to be quashed.

4. The learned Additional Government Pleader has sparingly contended that the petitioner has just passed 5th standard, whereas, the fourth respondent has passed 10th standard and on the basis of educational qualification, the appointment order of the petitioner has been cancelled by the Revenue Divisional Officer and the same has been confirmed by the District Revenue Officer, District Collector and the Tribunal and therefore, the order passed by the Revenue Divisional Officer does not call for any interference.

5. The learned counsel appearing for the fourth respondent has virtually adopted the arguments advanced by the learned Additional Government Pleader.

6. The only point that arises for consideration in the present writ petition is as to whether the cancellation order passed by the Revenue Divisional Officer, confirmed by the District Revenue Officer, District Collector and the Tamil Nadu Administrative Tribunal, Chennai, in T.A.No.188 of 1994, is liable to be quashed?

7. It is seen from the order passed by the Revenue Divisional Officer that for holding the post of Village Menial, one must have possessed the qualification of reading and writing in Tamil; he must be knowing cycling and he should have attained the age of 21 to 40.

8. It is an admitted fact that the petitioner has studied 5th standard and he has not possessed of any land at the time of appointment. On the basis of requisite qualification, the Tahsildar, Thiruvannamalai, has appointed the petitioner as Village Menial, but the Revenue Divisional Officer has cancelled the appointment order of the petitioner mainly on the ground of educational qualification of the fourth respondent as well as his property status. The order passed by the Revenue Divisional Officer has been confirmed by the District Revenue Officer as well as District Collector.

9. The contention put forth on the side of the Revenue Divisional Officer, District Revenue Officer as well as the District Collector has also been accepted by the Tribunal.

10. Considering the fact that for getting appointment for the post of Village Menial, a candidate must possess qualification of reading and writing in Tamil; he must be knowing cycling and he should have attained the age of 21 to 40. It is needless to say that appointment of the petitioner by the concerned Tahsildar is based upon the requisite qualifications.

11. As adverted to earlier, the appointment of the petitioner has been cancelled by the Revenue Divisional Officer only on the ground that the fourth respondent has studied 10th standard. But it has not been prescribed in the qualification. Since it has not been prescribed in the qualification and since it has been simply stated that a candidate for the post of Village Menial should possess knowledge of reading and writing in Tamil, the reason given by the Revenue Divisional Officer for cancelling the appointment order of the petitioner is erroneous.

12. The District Revenue Officer as well as District Collector, without considering the requisite qualifications and also without considering that the petitioner has already acted as a part time Village Menial in the same village, have erroneously accepted the conclusion arrived at by the Revenue Divisional Officer and further even the Tribunal has not at all considered the same. Therefore, viewing from any angle, the contention put forth on the side of the petitioner is really having subsisting force; whereas, the contention put forth on the side of the respondents is sans merit. Therefore, the present writ petition is liable to be allowed.

In fine, this writ petition is allowed without cost. The cancellation order dated 27.6.1990 passed by the Revenue Divisional Officer, confirmed by the District Revenue Officer and District Collector and also the order passed by the Administrative Tribunal in T.A.No.188 of 1994 are quashed. The appointment order of the petitioner dated 18.1.1990, passed by the Tahsildar, Thiruvannamalai, is upheld. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

To

1.The District Collector,
Thiruvannamalai Sambuvarayar District,
Thiruvannamalai.

2.District Revenue Officer,
Thiruvannamalai Sambuvaravar District.

3.Revenue Divisional Officer,
Thiruvannamalai Sambuvaravar District.

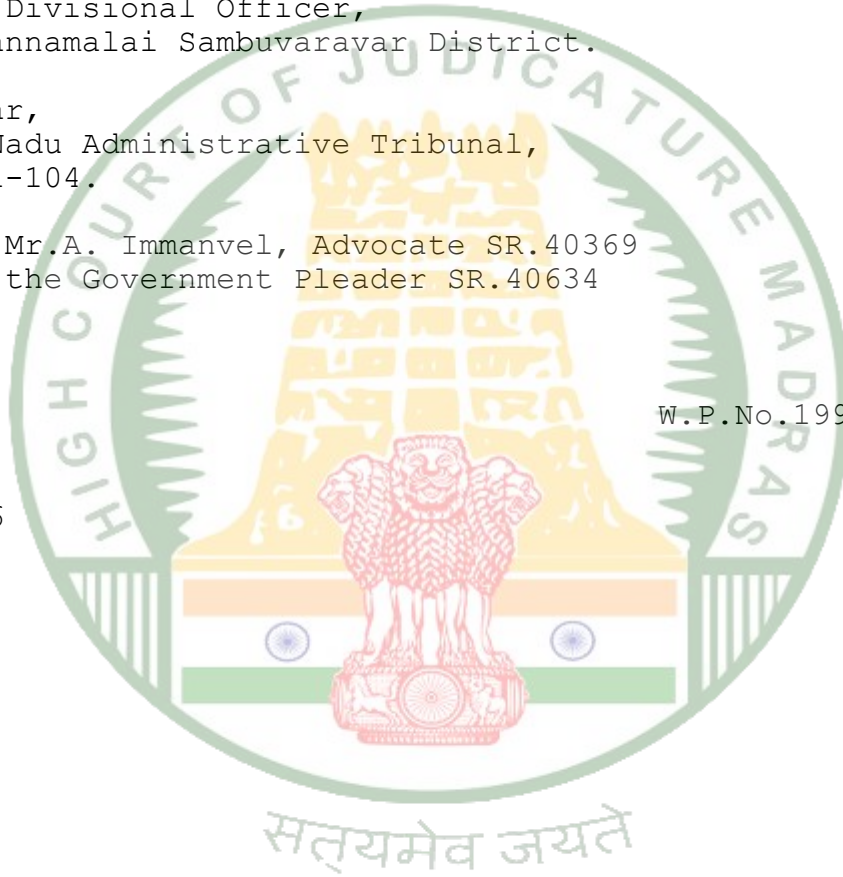
4.Registrar,
Tamil Nadu Administrative Tribunal,
Chennai-104.

+ 1 cc to Mr.A. Immanvel, Advocate SR.40369

+ 1 cc to the Government Pleader SR.40634

W.P.No.19977 of 2006

GJII(CO)
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