

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21084 of 2011

S.Duraisamy

... Petitioner

Vs.

1.The District Collector
Thiruvarur District
Thiruvarur.

2.The Block Development Officer
Valangaiman Taluk
Thiruvarur District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the the 2nd respondent to appoint the petitioner for the post of Panchayat Assistant in any Panchayat Union Office in the limits of Valangaiman Taluk, Thiruvarur district.

For Petitioner : Mr.M.Thamizhavel

For Respondents : Mr.K.Thangapandi
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to the second respondent to appoint the petitioner for the post of Panchayat Assistant in any Panchayat Union Office within the limits of Valangaiman Taluk, Thiruvarur district.

2.The learned counsel appearing on behalf of the petitioner states that the petitioner was initially appointed as Panchayat Assistant in Thiruvonamangalam Panchayat Union vide proceedings dated 11.07.1997. The petitioner was continuing in the post of Panchayat Assistant. The Block Development Officer, Valangaiman Taluk, transferred the writ petitioner to Padakacherry Panchayat Union vide proceedings dated 24.06.2008.

3.The petitioner states that his mother was not well during that relevant point of time and therefore, he could not attend duty and remained absent. The petitioner admits the facts that he remained absent unauthorisedly. The leave was not sanctioned by the competent authorities. Therefore, the petitioner has not joined duty and under these circumstances, he made a representation to permit him to join duty, but, there was no reply from the respondents. Thus, the writ petitioner is constrained to move this writ petition under Article 226 of the Constitution of India.

4.The learned counsel appearing on behalf of the respondents states that the petitioner remained in unauthorised absent and has not attended duty from the year 2008 onwards. This apart, he has not approached the authority immediately and he made a representation only in the year 2010 and after a lapse of 2 years.

5.The learned counsel for the petitioner states that the writ petitioner has given a representation even on 20.07.2009 itself. The said representation is enclosed in page no.4 of the typed set of papers filed along with the writ petition.

6.This Court is of the opinion that the writ petitioner has not enclosed any acknowledgement or otherwise to establish that the representation was received by the respondents. In the absence of any such acknowledgement or reference in this regard by the respondents, this Court cannot trust upon the authenticity of the representation sent by the petitioner to the respondents.

7.The petitioner though appointed in the year 1997 remained unauthorizedly absent from the year 2008. He filed the present writ petition on 12.09.2011 after a lapse of about 3 years from the date of his absence. The respondents also failed to initiate any action for the unauthorized absence. However, the relief sought for in this writ petition is to appoint the petitioner for the post of Panchayat Assistant.

8.Appointment sought to be made can be done only in accordance with the recruitment rules in force. An employee who left the services unauthorizedly cannot seek an appointment afresh by filing a writ petition. An appointment is to be considered only if a right is established. The writ petitioner has failed to establish any legal right so as to consider the relief sought for in this writ petition.

9.In this view of the matter, no further adjudication is required in this writ petition. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector
Thiruvarur District
Thiruvarur.
- 2.The Block Development Officer
Valangaiman Taluk
Thiruvarur District.

+1 cc to Govt Pleader sr 88120

W.P.No.21084 of 2011

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