

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WP.No.24929 of 2013 and

M.P.Nos.1 and 2 of 2013

M.Kamalakannan

.. Petitioner

Vs.

1.The Tahsildar,
Chengam Tk Office,
Tiruvannamalai Dist.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Tiruvannamalai.

3.The Collector,
Tiruvannamalai Dist.
Tiruvannamalai-606604.

4.The District Employment Officer,
Tiruvannamalai.

5.Tmt.Poove

6.A.Baby

7.A.Jamseth

8.Vani

.. Respondents

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Prayer: Writ Petition has been filed for the issuance of writ of Certiorarified Mandamus, by calling for the records of the 1st respondent in Na.Ka.A3/7375/2012 dated 24.08.2012 quash the same and consequently direct the 1st respondent to appoint the petitioner as village assistant forthwith.

Petitioner : Mr.R.Krishnan

Respondent : Mrs.P.Rajalakshmi (for R1 to R4)

Government Advocate

O R D E R

The writ petitioner who belongs to Scheduled Caste has passed 9th standard and thereafter, he registered his name in the Employment Office on 07.07.2000 and the Registration No.6607 of 2000.

2.The respondent has appointed the petitioner as Village Menial at Padiagram village in the place of his grandfather for a temporary period of 9 months as per the Tamil Nadu Menials Rules, 1980. For the said 9 months, experience certificate of service of Village Menial, the respondent has issued a certificate of work for a period of 7 months, since the petitioner was working for 9 months, but salary was given only 7 months and certificate was given only 7 months.

3.Thereafter, on 27.09.2004, the petitioner has sent a representation to the 3rd respondent for the appointment of Village Menial, but it was reported that during the relevant period of time, there was a ban for appointment in all the Department. Therefore, his request was not considered as per the reply of the 1st respondent dated 21.10.2004.

4.The petitioner further states that though he has not received any intimation from the 1st respondent about the result or appointment to the Village Assistant as per the Tamil Nadu Servants Rules, 1998, the petitioner again sent a representation on 20.04.2012, requesting to treat his temporary service as Village Assistant served in the year 1992 as the eligibility for appointment of the Village Assistant post.

Therefore, the petitioner has approached this Court and filed a writ petition in W.P.No.18180 of 2012. Pursuant to the above filing of the writ petition, the 1st respondent has passed an order on 24.08.2012 by stating that the 1st respondent has carefully considered his claim made in his representation dated 20.04.2012 and he replied to this petitioner that the writ petition in WP.No.18180 of 2012 is pending, the 1st respondent is expected to wait for the final verdict in his case and based on that suitable action will be taken in this case.

5.Though the petitioner was registered his name in the Employment Office on 07.07.2000 and his registration number is in No.6607 of 2000, but he wait for the recruitment, whereas the petitioner's juniors were called for the appointment.

6.The petitioner further states that in fact one Tmt.Poovee, Aritharimangalam has registered her name on 24.10.2001 and was appointed on 13.02.2008, one Tmt.A.Baby, Thanipadi, has registered her name on 31.05.2001 and she was appointed on 13.02.2008, one Mr.Jamseth, Millneth Nagar, Chengam, has registered his name on 13.02.2007 and was appointed on 13.02.2008 and one Tmt.Vani, has registered her name on 29.11.2000 and was appointed on 01.07.2012, whereas the petitioner was not at all appointed, since he registered his name on 07.07.2007 and his registration No.6607. Therefore, the petitioner has approached this Court and file this writ petition seeking prayer for the issuance of writ of certiorarified mandamus, to call for the records in the order passed by the 1st respondent in Na.Ka.A3/7375/2012 dated 24.08.2012 and to quash the same and consequently direct the 1st respondent to appoint the petitioner as Village Assistant forthwith.

7.A counter affidavit has been filed by the 1st respondent Tahsildar. In the counter, the 1st respondent stated that the petitioner belongs to Scheduled Caste and he was registered his name with District Employment Office and registration No.6607 of 2000 and served only for 7 months as admittedly in the place of his grandfather. The 1st respondent also submitted that on 27.09.2004, the petitioner was sent a representation to the 1st respondent, on 21.10.2004 reply was given by the 1st respondent stating that due to the ban for appointment, no recruitment was made.

8.The 1st respondent further states that after waiting for a long period of 8 years, he sent another representation on

20.04.2012, but there is no provision in rules for the appointment of Village Assistant, who have already worked temporarily as Village Menial and ousted from service. Therefore, his request was rejected on 24.08.2012 and the same was intimated properly to the writ petitioner.

9. Whenever, there is a vacancy caused in the unit, according to the list in the Roaster register and role of reservation, the list of eligible candidates were called for from the District Employment Officer, Tiruvannamalai and the District Employment Officer, Tiruvannamalai has also sent a list of candidates as per the role of reservation.

10. In the interview, the persons mentioned in the writ petition Tmt. Poovee, Tmt. Baby, Mr. Jamseth and Tmt. Vani were selected, since they have possessed the required qualifications for the post of Village Assistant and therefore, they have been selected and appointed and the petitioner belongs to Scheduled Caste category, the name of the writ petitioner was not suggested by the District Employment Officer, Tiruvannamalai, no call letter was sent to him for the post of Village Assistant under the Scheduled Caste category. Due procedure of law has been considered by the 1st respondent and as per the list of candidates sent under each category, call letters have been sent to them and after proper verifications only appointments have been issued to the selected candidates. Therefore, the impugned order has been properly considered and passed order in the writ petition. Hence, the 1st respondent states that there is no necessity to interfere in the order passed by the 1st respondent and this Court have no ground to interfere in the impugned order. Therefore, the 1st respondent prayed for dismissal of the writ petition.

11. I heard Mr. R. Krishnan, learned counsel appearing for the petitioner and Mrs. P. Rajalakshmi, learned Government Advocate appearing for the respondents 1 to 4 and perused the entire records.

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12. Admittedly, the writ petitioner was registered his name on 07.07.2000 with the District Employment Office, Tiruvannamalai and his registration No. 6607 of 2000. It is the case of the petitioner as well as the respondents that this petitioner was served for 7 months in the vacancy of his grandfather and thereafter he was stopped from service, since the petitioner has given a representation on 27.09.2004, due to

the ban for the appointment and reply dated 21.10.2004 was given to the writ petitioner. When the petitioner has approached this Court and filed a writ petition in W.P.No.18180 of 2012, pending writ petition, the 1st respondent has passed the present impugned order dated 24.08.2012 stating that due to the final verdict in the writ petition, the order has to be passed. It is admitted fact that Tmt.Poovee, Tmt.Baby, Mr.Jamseth and Tmt.Vani were appointed, who were registered their names in the Employment Exchange. Therefore, it is made clear that the 1st respondent without considering the proper roster point had simply not considered the petitioner's case.

13.It is not in correct, when the petitioner registered his name on 07.07.2000, the 1st respondent has not given any intimation in respect of any person appointed under the Scheduled Caste till the year of 2000. If the 1st respondent really appointed persons as per the roster point for the period of 2000-2012 by totally 12 years, definitely the petitioner would appoint in the said post, since his employment registration date is 07.07.2000. Therefore, the 1st respondent has not made any application of mind while appointing the persons as Village Assistant, it is made clear that there is no whisper about that the 1st respondent has properly maintained the roster point. If the 1st respondent would properly applied the roster point for appointment, definitely the person who appointed should be mentioned, but it is very silent in the counter. Therefore, the petitioner has make out the case before this Court that the petitioner registered his name on 07.07.2000 and has not been considered for the past 15 years for the reason best known to the respondents. Hence, this Court warranting interference in the impugned order and accordingly, the same is liable to be set aside. Accordingly, the writ petition is also liable to be allowed.

14.In the result:

(a) this writ petition is allowed;

(b) the 4th respondent/District Employment Officer, Tiruvannamalai, is directed to place the petitioner's name for the post of Village Assistant to the 1st respondent/Tahsildar, Chengam Taluk, within a period of four weeks from the date of receipt of a copy of this order;

(c) on receipt of the call letter from the 4th respondent, namely Tahsildar, Chengam Taluk, is hereby directed to consider the case of the petitioner and appoint him as Village Assistant in any one of the Village in the Chengam Taluk, within a period of eight weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

01.03.2017

BEING MENTIONED

The Writ Petition No.24929 of 2013 and MP.Nos.1 and 2 of 2013 under the caption "For Being Mentioned" for orders pursuant to the order of the court dated 01/03/2017 and made herein in the presence of the above said advocates, the Court made the following order:

The writ petition in W.P.No.24929 of 2013 judgment was delivered and the writ petition was allowed as prayed for in the writ petition.

2.Today, the matter is listed under the caption "for being mentioned" at the instance of learned counsel appearing for the petitioner, since, the petitioner was died on 24.01.2016.

3.The learned counsel appearing for the petitioner has filed a memo stating that the petitioner was died on 24.01.2016, pending writ petition and the said death was not informed to him. But, belatedly informed in the month of March 2017. Therefore, he filed a memo seeking recall the order passed by this Court on 01.03.2017. Since, the order was passed in favour of the death person. To that effect, he has also filed a memo.

4.Recording the said memo dated 13.04.2017, filed by the learned counsel appearing for the petitioner, the order passed in W.P.No.24929 of 2013 was recalled, since the writ petitioner was died on 24.01.2016 itself.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Tahsildar,
Chengam Tk Office,
Tiruvannamalai Dist.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Tiruvannamalai.

3.The Collector,
Tiruvannamalai Dist.
Tiruvannamalai-606604.

4.The District Employment Officer,
Tiruvannamalai.

+1 cc to M/s.A.Sivaji Advocate sr 13379
+1 cc to the Government Pleader sr 13589

WP.No.24929 of 2013
and
M.P.Nos.1 and 2 of 2013

mn(co)
aa24/10/2017



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