



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. [MD] .No.499 of 2014

AND

M.P. (MD) No.1 of 2014

The Commissioner,
Agastheeswaram Panchayat Union,
Agastheeswaram,
Kanyakumari District.

: Appellant

Vs.

1. C.Geetha Bright,
NMR Technical Assistant,
Agastheeswaram Panchayat Union,
Agastheeswaram,
Kanyakumari District.

2. The Secretary to Government,
Rural Development and Panchayat
Raj Department,
Secretariat,
Chennai - 600 008.

3. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai - 15.

4. The District Collector,
Kanyakumari District,
Nagercoil.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 22.04.2013 in W.P.(MD) no.5979 of 2009 on the file of this Court.

Prayer in WP(MD). 5979/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified mandamus to call for the records Vide letter No.5575/E3/09-1,dated 08.05.2009 on the file of the 1st Respondent and quash the same as illegal and consequently direct the Respondents to consider the petition's case for permanent absorption in the cadre of Road Inspector, Grade-II/ Overseer or any other equivalent post based on the petitioners qualification and acquired eligiblity within the time limit.



WEB COPY

For Appellants

: Mr.Aayiram K.Selvakumar,
Government Advocate

For Respondents

: Mr.M.Govindan, Spl.G.P.
For RR2 to 4

Mr.K.Gurunathan for

Mr.G.Thalaimutharasu for R1

JUDGMENT

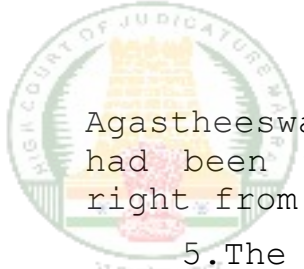
[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Commissioner, Agastheeswaram Panchayat Union is on appeal, questioning the order dated 22 April 2013 disposing of W.P.(MD) No.5979 of 2009 filed by the first respondent herein with certain directions.

2.The first respondent herein contended that she was appointed as NMR Technical Assistant on daily wages in Agastheeswaram Panchayat Union on 03 September 1996. She had passed Diploma in Civil Engineering and had also enrolled herself with the employment exchange. She is qualified to hold the post of Technical Assistant. Even though she had been continuously working in the said Panchayat Union, her services were not regularised. Following the issuance of certain Government Orders calling for filling up of the vacancies in the posts such as Overseer, Junior Draughting Officers and Road Inspector Grade II, the writ petitioner submitted representations to the Secretary to Government, Rural Development and Panchayat Raj Development seeking consideration of her case for appointment to the post of Road Inspector Grade II. Her request was however rejected by order dated 08 May 2009 in letter No.5575/E3/09-1 on the ground that she was not working on the date of issuance of G.O.(D) No.739, Rural Development and Panchayat Raj (E3) Department dated 15 December 2006.

3.The District Collector, Kanyakumai District had given a report as if the writ petitioner was removed from service on 31 March 1997. She thereafter filed W.P.(MD) No.5979 of 2009 challenging the impugned order dated 08 May 2009 passed by the Secretary to Government, RD & PR department. She sought a consequential direction for consideration of her case for permanent absorption in the cadre of Road Inspector Grade II/Overseer or any other equivalent post based on her qualification.

4.During the writ proceedings, the learned counsel for the petitioner produced a letter given by the President of



Agastheeswaram Panchayat Union to the effect that the petitioner had been working in the Panchayat Union in various capacities right from 04 March 1996.

5.The learned single Judge placed reliance on the said communication and set aside the impugned order and remitted the matter to the file of the authorities for consideration of the writ petitioner's case for the appointment sought for. It was also directed that while implementing the order of the Court, the case of a similarly placed person by name Murugan, Agastheeswaaram was directed to be taken into account. Aggrieved by the same, the Commissioner, Agastheeswaaram Panchayat Union is before this Division Bench.

6.The leaned counsel appearing for the appellant could not demonstrate that the letter dated 05 April 2013 given by the Agastheeswaaram Panchayat Union President was a fabricated or forged one. On the other hand, what corroborates the said letter is the stand taken in the counter affidavit filed by the appellant herein.

7.In para 16 of the counter affidavit filed in the writ proceedings, it has been admitted that the writ petitioner was unofficially engaged y the Union Engineer to assist the technical staff in the preparation of estimates and bills etc. The stand of the appellant was that the writ petitioner was engaged in an irregular manner with effect from 04 March 1996, but, not on regular basis.

8.In these circumstances, there is no justification in interfering with the order passed by the learned single Judge. The reasoning found in the order dated 22 April 2016 in W.P.(MD) No.5979 of 2009 is certainly sound and we find no merit in this appeal.

9.Accordingly, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Rural Development and Panchayat
Raj Department,

Secretariat,

<https://hcservices.ecourts.gov.in/hcservices/>
Chennai - 600 008.



2. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai - 15.

4. The District Collector, 3
Kanyakumari District,
Nagercoil.

+1cc to Mr.G.Thalaimutharasu, Advocate Sr.No.65089

+1cc to Spl.Government Pleader Sr.No.65240

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VB/SV/SAR2/19.07.2017/4P/7C

**JUDGMENT MADE IN
W.A. [MD] .No.499 of 2014
AND
M.P. (MD) No.1 of 2014**

11.07.2017