



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

CORAM :

WEB COPY

**THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE MR. JUSTICE T.VELMURUGAN**

W.A.(MD)No.1066 of 2016  
in  
C.M.P.(MD).No.6422 of 2016

1.The District Collector,  
Ramanathapuram District.

2.The District Revenue Officer,  
Ramanathapuram,  
Ramanathapuram District.

3.The Tahsildar,  
Kadaladi Taluk,  
Ramanathapuram District.

... Appellants/Respondents

Versus

S.Andi

... Respondent/Petitioner

Writ Appeal is filed under Clause 15 of the Letters Patent Act, to set aside the order passed in W.P.(MD)No.3264 of 2007, dated 04.12.2014.

Prayer in WP(MD)No.3264/2007:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.E1/68651/05 dated 10/04/2006 and quash the same and consequently appoint the petitioner as village assistant to meenankudi group of Villages.

|                |                      |
|----------------|----------------------|
| For Appellants | :Mr.S.Chandrasekaran |
|                | Government Advocate  |
| For Respondent | :Mr.K.Mahendran      |



appearing for the respondent. By consent of both the parties, the writ appeal itself is taken up for final disposal.

2. This appeal is directed against W.P(MD).No.3264 of 2007, dated 04.12.2014 which was filed by the respondent/writ petitioner to quash the order passed by the third appellant, dated 10.04.2006 whereby the third appellant rejected the claim of the respondent, who was appointed as a Village Assistant and the benefits which the writ petitioner claimed is not in terms of the concession granted under the Tamil Nadu Village Services Rules which came into force on 01.06.1995. In terms of rule 8, there is the provision of conversion of part time Village Assistants to the posts of Assistant. Since, there is no formal appointment order as part time Village Assistant, this benefit has not been granted. The said rule is quoted hereunder:-

Part-time Village Servants, appointed-

- I) under the Tamil Nadu proprietary Estates' Service Act, 1894 (Tamil Nadu Act II of 1894) or the Tamil Nadu Hereditary Village Offices Act, 1895 (Tamil Nadu Act III of 1895) and who continue to held office by virtue sub-section (3) of Section 2 of the Tamil Nadu Proprietary Estates' Welfare Service and the Tamil Nadu hereditary Village offices (Repeal) Act, (Tamil Nadu Act 20 of 1968);
- (ii) under the Tamil Nadu
- (iii) under the Tamil Nadu village officers (Appointed under the Revenue Standing Orders) Service Rules, 1978 or
- (iv) under the Tamil Nadu Village Servants Service Rules, 1980,

3. In terms of above rule, persons who were called Vetti, Nirgandi or Thalayari under the Village Service Rule 1980 and working as such on 01.06.1995 shall be deemed to have been appointed as Village Assistant under the rules on that day and nothing in the rules shall affect any such person. The respondent's case is that he is entitled to the benefit of the said Government Order, which was denied by the appellants. In the counter affidavit it is contended that as on 01.06.1995, the respondent was not in employment as Village Assistant. The respondent produced several documents in support of his claim before the Writ Court and the Writ Court considering those document rendered a finding that the respondent/writ petitioner had been working as a Thalayari/Village Assistant during the relevant time. The factual finding recorded by the writ Court is quoted hereunder;

The petitioner claims to have been employed as Village Assistant from 1982 to 1989 with break in service. The documents relied on by him to prove his working in such capacity for such period are (i) working certificate given by the Tahsildar (ii) the proceedings of the Tahsildar; and (iii) the extracts of Birth and Death Register, dated 24.05.1995 and



06.08.1995. The working certificate, dated 13.06.1998, issued by the Tahsildar, Muthukulathur, reads as if the petitioner was working as temporary village Assistant from 11.11.1982 to 06.07.1989. The certificate also refers to the proceedings under which the petitioner was working as temporary village Assistant. The Tahsildar, Muthukulathur, issued the proceedings in A2/Pa.Va.158/94, dated 09.02.1994, wherein instructions were given to VAOs of various places in respect of the duty assigned to them on 16.02.1994 and 17.02.1994 in connection with arrival of Chief Minister for announcing certain welfare schemes. One of the VAOs mentioned therein was one Kathiresan, VAO, Aappanoor. The petitioner herein by name Andi is shown as Village Assistant, Meenankudi, to assist him. The reading of the extract of Birth and Death Register shows that the particulars related to the entries, dated 24.05.1995 and 06.08.1995, were furnished by the petitioner, in his capacity as Thalayari i.e., Village Assistant, Meenankudi.

4. The averments set out in the above paragraph has not been denied by the third appellant in the counter affidavit filed in the writ petition. Further at the time of hearing a communication sent by the third appellant to the Government Advocate, dated 25.11.2014, was produced which is after the counter affidavit was filed by the third appellant in the writ petition, which was filed in July 2008. We have perused the said communication dated 25.11.2014 and we find that the third appellant attempted to get over the documents which were produced by the respondents and appreciated by the Writ Court. However, the third appellant does not take a specific stand that the document is forged or fabricated document, but makes vague allegations and harps upon the probability of the documents not have been issued and not being relevant. However, we are not inclined to permit the third appellant to take such a stand, which was never taken before the Writ Court and in the counter affidavit. Thus, there is no error in the order passed in the Writ Court. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CSI)\

/True Copy/

Sub-Assistant Registrar



To

1.The District Collector,  
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2.The District Revenue Officer,  
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Ramanathapuram District.

3.The Tahsildar,  
Kadaladi Taluk,  
Ramanathapuram District.

+One cc to The Special Government Pleader, SR.No.54209

+One cc to Mr.K.Mahendran, Advocate, SR.No.54063

jikr/sss

RL/6C/4P/MR/SAR3/10.5.2017

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