



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

CORAM:

**THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN**

**and**

**THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN**

**W.A. (MD) No. 891 of 2016**

**and**

**C.M.P. (MD) No. 5365 of 2016**

1. The Director of Rural Development,  
Panagal Building,  
Saidapet, Chennai.

2. The Government of Tamil Nadu,  
Represented by its Secretary,  
Rural Development Department,  
Secretariat,  
Chennai-600 009.

3. The District Collector,  
Panchayat Development,  
Karur.

4. The Commissioner,  
Panchayat Union,  
Kulithalai,  
Karur District.

: Appellants / Respondents

Vs.

Muthukrishnan

: Respondent / Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act to set aside the order dated 26.06.2014 made in W.P.(MD).No.8227 of 2009, by allowing this writ appeal.

**Prayer in WP(MD). 8227/ 2009 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records pertaining to the impugned order passed by the 4<sup>th</sup> respondent in his proceedings Na.Ka.A1/952/2008, dated 30.06.2008, quash the same, and consequently direct the respondents to allow the petitioner to retire in the cadre of Fitter and pay other consequential benefits.



For Respondent

: Mr.P.Saravana Kumar  
For M/s.Kalayarasi Bharathi**JUDGMENT**

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

This Writ Appeal is directed against the order dated 26.06.2014 made in W.P.(MD).No.8227 of 2009.

2.The writ petitioner was appointed as a 'Helper' on 05.12.1984. According to him, he was appointed as 'Fitter' in Kadavanur Panchayat Union. He retired from service on 30.06.2008. However, in the proceedings dated 30.06.2008, issued by the Commissioner, Kulithalai Panchayat Union, the writ petitioner was described as 'Helper'. According to the writ petitioner, he should have been allowed to retire only as 'Fitter' and not as 'Helper'.

3.Aggrieved by the mistake that is said to have crept in the retirement order regarding the post, he filed W.P.(MD).No.8227 of 2009. The said writ petition was allowed and the order dated 30.06.2008 was set aside. The matter was remanded to the Commissioner, Panchayat Union, Kulithalai for passing appropriate orders on merits and in accordance with law. As against this order, this intra-Court appeal has been preferred.

4. It is no doubt true that the learned Single Judge had observed that in all the communications sent by the Commissioner, Panchayat Union, Kulithalai, the writ petitioner was described only as a 'Fitter' and therefore, there is no justifiable reason for describing him as 'Helper' in the order of retirement.

5.But in the operative portion of the order made in the writ petition, the matter has only been remanded to the Commissioner, Panchayat Union, Kulithalai for passing appropriate orders on merits and in accordance with law. This can only mean that the Commissioner, Panchayat Union, Kulithalai will have to pass an order on merits. In this view of the matter, we see no ground to interfere with the order impugned in the writ petition.

6.The Commissioner, panchayat Union, Kulithalai is directed to pass orders on the representation of the writ petitioner within three months from the date of receipt of a copy of this order.

7.This Writ Appeal is dismissed. No costs. Consequently, C.M.P.(MD).No.5365 of 2016 is closed.

Sd/-

Assistant Registrar(P &amp; A)

/True Copy/



To:

1.The Director of Rural Development,  
Panagal Building,  
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2.The Secretary to the Government of Tamil Nadu,  
Rural Development Department,  
Secretariat, Chennai-600 009.

3.The District Collector,  
Panchayat Development, Karur.

4.The Commissioner,  
Panchayat Union,Kulithalai, Karur District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. NO.70600

+1cc to M/s.P.KALAYARASI BHARATHI Advocate in SR. No.69875

TSG/SKM

JS/GT/SAR.3/23.08.2017/3P-7C

Judgment made in  
**W.A. (MD) No.891 of 2016**  
**and**  
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