



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:17.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.1366 of 2011
and
M.P. (MD) .Nos.1 & 2 of 2011

R.Theethakarai : Appellant
Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Block Development Officer (Pachayats),
Narikudi Panchayat Union,
Narikudi,
Virudhunagar District.

3.The President,
Pillayarkulam Village Panchayat,
Narikudi Panchayat Union,
Pulvaikarai (PO),
Thirupuvanam Via,
Virudhunagar District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act to set aside the order of the learned Judge passed in W.P.(MD). No.8161 of 2011, dated 29.10.2011 and allow the said appeal and decide the case on merits.

Prayer in WP(MD). 8161/ 2011:

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 in Na.Ka.A1/375/10 dated 06-01-2011 on the file of the 2nd Respondent herein and quash the same as illegal, and direct the 2nd Respondent to approve the appointment of the Petitioner for the post of Panchayat Clerk in the 3rd Respondent Panchayat.

For Appellant : Mr.S.Karunakar

For Respondents : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

**JUDGMENT**

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

The unsuccessful writ petitioner is on appeal challenging the order dated 29.10.2011, dismissing W.P.(MD).No.8161 of 2011, filed by him.

2.The case of the appellant is that he applied for the post of Panchayat Clerk on 01.11.2010. He was issued with an appointment order dated 06.12.2010. But, he could not join continuing duty, since he met with an accident. After getting cured, he approached the third respondent. The appellant was informed that the second respondent declined to approve the appointment. Since the appellant had already crossed the upper age limit, he invoked the provisions of the Right to Information Act, 2005 and came to know that by order dated 16.06.2011, passed by the third respondent, that the request of the appellant has been forwarded to the second respondent. Since, there is no action on the same, he filed W.P.(MD).No.8161 of 2011. The learned Judge dismissed the writ petition, by order dated 29.10.2011. Aggrieved by the same, this Writ Appeal has been filed.

3.Heard the learned counsel appearing for the parties.

4.The learned counsel appearing for the appellant would contend that the benefit of age relaxation of five years granted by the Government in G.O.(MS).No.114, Personal and Administrative Reforms (S) Department, dated 11.08.2010, should be applied in this case.

5.This Court is unable to accept the contention of the learned counsel for the appellant, because the very appointment order dated 06.12.2010 said to have been issued in favour of the appellant appears to be highly doubtful. If there is a vacancy in a post of this nature, it has to be filled up by following certain procedures. In this case, there is nothing on record to show that the vacancy was duly notified or that applications from eligible candidates were invited and selected after due process. The copy of the appointment order enclosed in the typed set of papers itself would show that it has been arbitrarily issued by the Panchayat President for extraneous consideration. The so-called appointment is non-est in the eye of law. The second respondent rightly declined to accept the said appointment. The reasons assigned by the learned Judge for dismissing the writ petition are sound.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Therefore, we find no merit in this Writ Appeal. It stands



dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

WEB COPY

Sub Assistant Registrar

To:

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Block Development Officer (Pachayats),
Narikudi Panchayat Union,
Narikudi,
Virudhunagar District.
- 3.The President,
Pillayarkulam Village Panchayat,
Narikudi Panchayat Union,
Pulvaikarai (PO),
Thirupuvanam Via,
Virudhunagar District.

+1cc to Mr.S.KARUNAKAR,Advocate,SR.72930

+1cc to M/S.Special Government Pleader,SR. 73195

W.A. (MD)No.1366 of 2011

and

M.P. (MD) .Nos.1 & 2 of 2011

Dated :17.08.2017

TSG

KK/SV MMS/SAR 3/13.12.2017/ 3P- 6C/