

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 03.02.2017****CORAM:****THE HONOURABLE MR. JUSTICE R.SURESH KUMAR**

WEB COPY

W.P. (MD) No.2753 of 2011**and****M.P. (MD) No.1 of 2011**

A.Annalakshmi

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Aruppukottai Division,
Aruppukottai,
Virudhunagar District.

2. The Tahsildar,
Kariapatti Taluk
Kariapatti
Virudhunagar District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to proceedings K.Dis(A-1) 105/2011 dated 30.01.2011 and quash the same and consequently direct the respondents to allow the petitioner to continue in the same village as Village Assistant.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.V.Muruganandham

Additional Government Pleader

ORDER

The prayer in the writ petition is for a writ of Certiorari to call for the records of the first respondent relating to proceedings K.Dis(A-1)105/2011 dated 30.01.2011 and quash the same and consequently direct the respondents to allow the petitioner to continue in the same village as Village Assistant.

2. The case of the petitioner is that the petitioner is a Scheduled Caste candidate. Her name has been sponsored by the Virudhunagar District Employment Exchange for the post of Village Assistant at Kariyapatti Taluk, Virudhunagar District, as per the requisition letter dated 03.08.2010 of the 2nd respondent herein. According to the petitioner, there were 61 posts of Village Assistants. The 2nd respondent, by letter, dated 31.08.2010 directed the petitioner to appear for an interview to be held on 16.09.2010. Accordingly, the petitioner attended the interview. Subsequently, by proceedings of the 2nd respondent dated

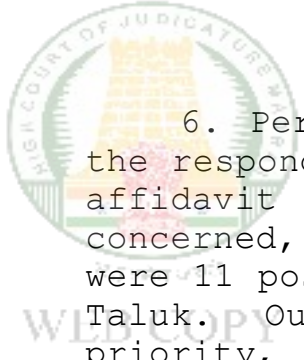


10.01.2011, the petitioner was appointed as Village Assistant and posted at Panaikulam Village. Subsequently, the petitioner joined in service at Panaikulam Village on 12.01.2011 and continued to serve in the same village. While so, all of a sudden by order dated 30.01.2011, the first respondent had issued an order, which was served on the petitioner on 02.03.2011, whereby the appointment of the petitioner has been cancelled on the ground that the petitioner was appointed mistakenly in the post of Village Assistant, which is reserved for Scheduled Caste general priority, whereas, the petitioner did not come under the category of Scheduled Caste General priority. However, she was given only under the category of SC General non priority. Challenging the said order, the petitioner has come out with this writ petition.

3. During the pendency of the writ petition, even at the time of admission stage, in M.P.No.1 of 2012, this Court has granted an interim order of stay. Subsequently, the interim order already granted was extended by this Court until further orders. By virtue of the interim order, the petitioner's services have not been disturbed and she has been continuously working all along till date.

4. The petitioner's case is that the petitioner belongs to Scheduled Caste Community and she never claimed any priority quota on the basis of inter-caste marriage. It is the definite case of the petitioner that the petitioner was neither born out of inter-caste marriage parents nor the petitioner had married with any inter-caste groom. Therefore, at any point of time, the petitioner had claimed that she belongs to SC community seeking priority quota of appointment for inter-caste marriage. While so, the reason adduced by the first respondent in the order impugned for cancelling the appointment that the petitioner had been mistakenly appointed under priority quota for Scheduled Caste, whereas, the petitioner comes only under the non priority quota, therefore, the appointment was cancelled, has absolutely, no legs to stand.

5. It is the further case of the petitioner, as submitted by the learned counsel for the petitioner, that there were more number of posts vacant than the one for which, the petitioner was appointed, which is exclusively earmarked for Scheduled caste candidate. That being so, the petitioner being the Scheduled caste candidate and since she has fulfilled all the required qualifications, she had been selected and appointed and therefore, the appointment, especially made to the petitioner would be construed only under SC general non priority category and the same need not be construed as SC priority category. Therefore, there can be no impediment for the petitioner to continue in the post, as she has been selected only based on the interview conducted by the 2nd respondent, he contended.

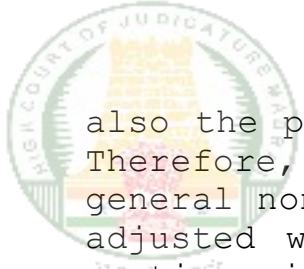


6. Per contra, the learned Additional Government Pleader for the respondents, by relying upon the averments made in the counter affidavit as well as the files produced by the officials concerned, has submitted, on instructions, that totally, there were 11 posts of Village Assistants earmarked in the 2nd respondent Taluk. Out of the 11 posts, in the post reserved for SC general priority, three posts reserved for the SC general non priority, one post is reserved for SC (G) non priority exclusively for Destitute Widow, one post reserved for SC (A), one post reserved for ST (G) priority and one more post was reserved for SC (Women) priority category, apart from that three more posts earmarked for SC women non priority. This is how, the 11 posts had been distributed. Out of 11, since one post was reserved for SC women priority only, those priority category candidate should have been appointed, whereas, this petitioner, since admittedly, not belongs to the priority category, since had been mistakenly selected for the said post and she was appointed. Therefore, a wrong selection made to the petitioner under SC general priority category has been subsequently found out by the respondents and therefore, the same was cancelled by the orders impugned herein passed by the first respondent. Therefore, the learned Additional Government Pleader would submit that absolutely there is no infirmity in the impugned order.

7. This Court has considered the rival submissions made by both sides.

8. Insofar as the distribution of vacancies is concerned, even according to the respondents, out of 11 vacancies, atleast 3 vacancies have been earmarked for SC general non priority. Like that three more vacancies are earmarked for SC women non priority. Since the petitioner is a woman and she belongs to SC community, she can compete both for SC general non priority as well as SC women - non priority. Therefore, for all the six vacancies reserved under the said two categories, the petitioner can very well be considered. Even according to the learned Additional Government Pleader, one out of the 11 posts reserved for Destitute Widow, since has not been filled up for want of candidate. Insofar as the petitioner's candidature is concerned, by virtue of the interim order passed by this Court, she is also continuing.

9. As far as the petitioner's candidature is concerned, she has never claimed that she belongs to SC priority category. Her only claim is that she belongs to SC community. Since these posts are earmarked (three) exclusive for women, there can be no impediment for the respondents to consider the selection made against the petitioner in either one of the 6 vacancies available, for which, the petitioner can very well be fit in. Since the three <https://hcservices.courts.gov.in/hcservices/> are exclusively reserved for SC Women, in that quota also, the petitioner can be fit in. Like that, the remaining three, which is earmarked for SC (G) non priority, where



also the petitioner, since belongs to SC community may be fit in. Therefore, at any rate, out of the 6 vacancies earmarked for SC general non priority, SC women non priority, the petitioner may be adjusted with anyone of such vacancies and accordingly, she can continue in the post. It is not the case of the respondents that any candidate, who has performed well or has been awarded highest marks than the petitioner has claimed the postings out of the 6 vacancies earmarked for SC women as well as SC general. When that being so, the petitioner being the one of the fit candidate, since she has been selected, pursuant to the interview conducted by the respondents, she can very well continue in the post, as her selection, though mistakenly has been done, originally under the quota of SC general priority, the same can be adjusted towards the vacancies available in SC general non priority or SC women non priority. In that view of the matter, the impugned order is liable to be interfered with. Accordingly, the same is quashed.

10. The respondents herein are directed to adjust the appointment of the petitioner in either the three vacancies earmarked for SC (G) non priority or other three vacancies for SC women and accordingly her services can be confirmed subject to other Service Rules, which governing the services of the petitioner.

11. With the above observations and directions, the writ petition is allowed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
Aruppukottai Division,
Aruppukottai,
Virudhunagar District.

2. The Tahsildar,
Kariapatti Taluk, Kariapatti,
Virudhunagar District.

+1cc to Spl.Government Pleader Sr.No.6398

RR

VB/SV-MMS/SAR4/15.06.2017/4P/4C

**W.P. (MD) No.2753 of 2011
and**

**M.P. (MD) No.1 of 2011
03.02.2017**