

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.8369 of 2010
and M.P.No.1 of 2010

M.Selvam

... Petitioner

Vs

1.Block Development Officer,
(Village Panchayat),
Anakkavur Block,
Office at:Anakkavur Post,
Cheyyar Taluk, T.V.Malai District.

2.The District Collector,
Tiruvannamalai District Collectorate,
Tiruvannamalai.

3.V.Sampath
Panchayat Assistant
Anappattur Panchayat,
Anapattur Post, Cheyyar Taluk,
T.V.Malai District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, praying to call for the records of the 1st respondent herein comprised in his impugned order of appointment in Na.Ka.A4/403/2009, dated 05.03.2010 and quash

the same, which is detrimental to the interest of the petitioner herein as the existing part time Panchayat Clerk of Erumaivetti Village Panchayat, Anakkavur Panchayat Union, Tiruvannamalai District.

For Petitioner : M/s.V.Ramana Reddy

For Respondents : Ms.K.Bhuvaneswari
Additional Government Pleader
for R1 and R2

ORDER

The prayer in the writ petition is to issue a Writ of Certiorari, praying to call for the records of the 1st respondent herein comprised in the impugned order of appointment in Na.Ka.A4/403/2009, dated 05.03.2010 and to quash the same, which is detrimental to the interest of the petitioner herein, as the existing part time Panchayat Clerk of Erumaivetti Village Panchayat, Anakkavur Panchayat Union, Tiruvannamalai District.

2. The petitioner was appointed as a Part-time Panchayat Assistant by an resolution passed on 10.11.2006. The petitioner states that the resolution was approved by the Anakkavur Panchayat Union and his scale of pay was fixed by the Panchayat. In such circumstance, the first respondent has issued the impugned order in

Na.Ka.No.A4/403/2009, dated 05.03.2010 appointing the Panchayat Clerk of nearby Village, by way of an additional charge, thereby terminating the services of the petitioner. The petitioner has stated that the reason for his termination was that he has not passed X standard, which is the basic qualification to hold the post. The petitioner has further stated that many other panchayat clerks are working even now, without the prescribed qualification.

3. A counter affidavit has been filed by the first respondent. The first respondent states that the mother of the petitioner was elected as the President of the Erumaivetti Village Panchayat, Annakavur Panchayat Union, for the period from 2006 to 2011 and had issued the appointment order dated 10.11.2006 appointing the petitioner as Part-time Panchayat Assistant. The President of the village Panchayat, Erumaivetti Village, by misusing her powers had passed a resolution in the Erumaivetti Panchayat Council and made the appointment order in favour of the petitioner. The said appointment is illegal and irregular.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents.

5. It is not in dispute that the petitioner has been appointed by way of appointment order dated 10.11.2006. The petitioner's service, after four years, has been terminated and filling up of the said post, after four years without any notice to the petitioner herein, is illegal.

6. The petitioner could not have been removed from service without any proper opportunity to defend the case. In view of the fact that the impugned order has been passed without giving any opportunity to the petitioner to defend himself, the impugned order has to be necessarily set aside.

7. Respondents 1 and 2 are directed to provide an opportunity to the petitioner and pass appropriate orders, within a period of eight weeks from the date of receipt of copy of this order.

8. Accordingly, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

18.09.2019

Index : Yes / No
Internet : Yes / No
Speaking/ Non Speaking Order
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To

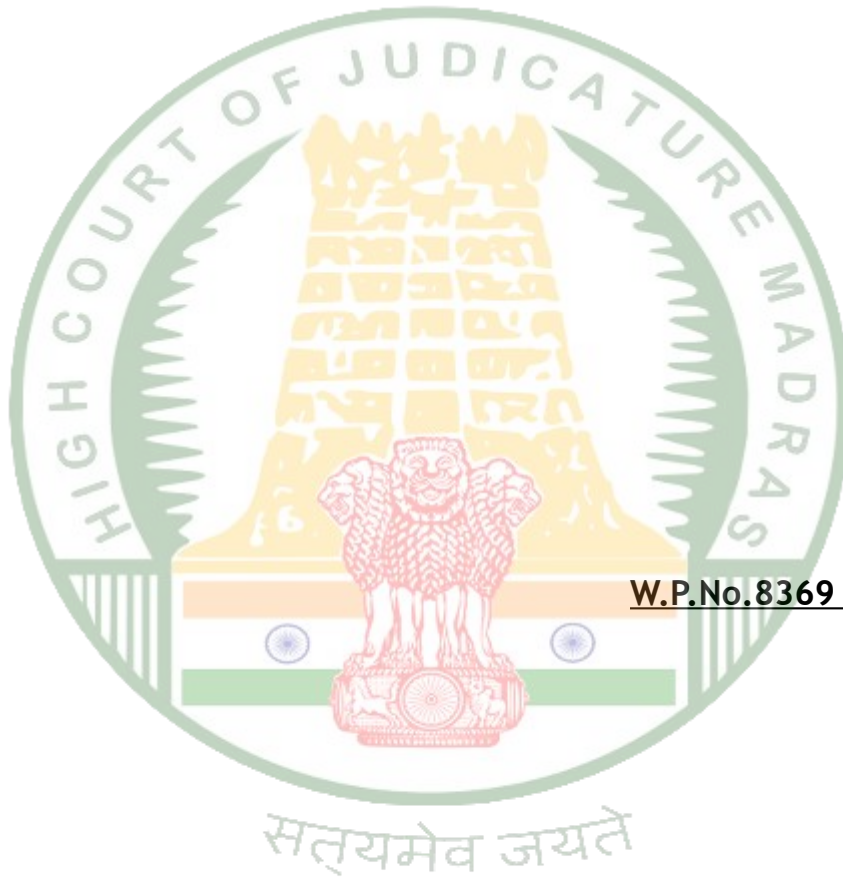
1.The District Collector,
kanchipuram District.

2.The Block Development Officer,
(Village Panchayat),
Uthiramerur Panchayat Union,
Kanchipuram District.

3.The President,
Puliyur Panchayat,
Uthiramerur Panchayat Union,
Kanchipuram District.

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SUBRAMONIUM PRASAD, J.
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