



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.8344 of 2012

and

M.P. (MD) No.1 of 2012

WEB COPY

K.Parameswari

... Petitioner

-Vs-

1.The District Employment Officer,
Sivagangai District, Sivagangai.

2.The Tahsildar, Sivagangai Taluk,
Sivagangai District.

3.R.Jeyakumari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring the appointment of the third respondent for the post of Village Assistant to the Paiyur Pillai Vayal Group Village by the second respondent on 28.02.2011 is illegal, null and void and consequently, directing the respondents 1 and 2 to fill up the said vacancy with qualified aspirants of Paiyur Pillai Vayal Group Village, Sivagangai District.

For Petitioner	: Mr.M.Ponniah
For R1 and R2	: Mr.M.Jeyakumar, Additional Government Pleader.
For R3	: Mr.S.Visvalingam

ORDER

The Writ of Declaration on hand is filed to declare the appointment of the third respondent for the post of Village Assistant to the Paiyur Pillai Vayal Group Village by the second respondent on 28.02.2011, is illegal and null and void.

2.The learned counsel appearing on behalf of the writ petitioner strenuously contended that the third respondent was over aged during the relevant point of time, when the order of appointment was issued. This apart, sponsoring of the names itself was illegal and the communal rotation was improperly followed. Thus, the appointment of the third respondent is to be declared as null and void and fresh selection is to be conducted.

3.The writ petitioner is a qualified candidate for appointment to the post of Village Assistant and however, the third respondent, who is residing outside the village, was



appointed on extraneous consideration. Thus, the Writ Petition deserves to be considered.

4.The learned counsel appearing on behalf of the third respondent made a submission that the writ petitioner was not even sponsored for selection. The writ petitioner had not participated in the process of interview. Thus, the Writ Petition cannot be entertained, as she was not a candidate, who participated in the process of selection and therefore, the appointment order issued in favour of the third respondent cannot be challenged at all.

5.This apart, the third respondent undoubtedly was appointed at the age of 37 years. However, the Government imposed ban for appointment in between the year 2001 to 2006 and in view of the ban imposed upto the year 2006, the Government granted 5 years age relaxation to all the candidates upto the year 2011 and the third respondent was appointed during the year 2011 by availing concession granted by the Government in G.O.Ms.No.114, Personal and Administrative Reforms Department, dated 11.08.2010. Thus, age limit was enhanced from 35 years to 40 years. The third respondent at the time of appointment was 37 years and therefore, there was no infirmity as such in respect of the appointment of the third respondent.

6.The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 also supported the arguments of the learned counsel appearing on behalf of the third respondent and relied on Paragraph Nos.4 and 5 of the counter affidavit filed by the second respondent, which are extracted hereunder:-

"4.It is submitted that, basically the petitioner has no locus standi to file this writ petition on the ground that she was not at all sponsored through Employment Exchange for filling the post of Village Assistant in the Paiyur Pillai Vayal Village, Sivagangai Taluk, according to her employment seniority. For filling the post of Village Assistant in the Paiyur Pillaivayal Village, Sivagangai Talum which is meant for women candidate, five women candidates were sponsored according to registration seniority and applying 1:5 ratio as per G.O.Ms.No.429, Revenue Department, dated 08.08.2007.

5.It is submitted that the writ petitioner and 3rd respondent are both of the candidates belongs to women category. The petitioner belongs to Backward Community and the 3rd respondent belongs to Most Backward Community. The allotment was not made based on community basis since it was reserved for General Turn (Women) category. According to the Village Assistant appointed to the Paiyur Pillai Vayal Village, Sivagangai



Taluk should belong to the particular village and the minimum educational qualification is pass in 5th standard and the maximum qualification is 10th standard and the upper age limit is 35 years."

7.This Court is of the considered opinion that the third respondent is working in the post of Village Assistant for the past 9 years. Thus, the appointment continuing for 9 years need not be unsettled at this length of time. The writ petitioner, who had not even participated in the process of selection, cannot now seek quashing of the appointment of the third respondent, who is in service for the past 9 years.

8.This being the factum now placed before this Court, the appointment of the third respondent at this length of time need not be disturbed. However, the authorities competent are bound to conduct selection under the constitutional schemes and by following the established procedures. Even for the basic services, the authorities competent has to follow the procedures, so as to ensure equal opportunity in public employment to all other candidates, who are aspiring to secure public employment through open competitive process. In another Writ Petition, this Court also directed the Government to formulate the scheme for selection, so as to ensure equal opportunity and equality clause enunciated under the Constitution of India. Thus, no further adjudication at this length of time as far as the present Writ Petition is concerned, is required.

9.Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Employment Officer,Sivagangai District, Sivagangai.
- 2.The Tahsildar, Sivagangai Taluk, Sivagangai District.

+1 CC to M/s.M.PONNIAH, Advocate (SR-78635[F] dated 30/07/2019)
+1 CC to M/s.S.VISVALINGAM, Advocate (SR-78697[F] dated 30/07/2019)
+1 CC to M/s.SPL GP (SR-78981[F] dated 31/07/2019)

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