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W.P.(MD)Nos.25158/2018 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.25158 to 25161 of 2018

&

W.M.P. (MD)Nos.22784 to 22790 of 2018

&

W.M.P. (MD)Nos.750 to 753 of 2019

and

W.P. (MD)Nos.18668 to 18672 and 18674 of 2019

&

W.M.P. (MD)Nos.15037 15039, 15040, 15042, 15043, 15045, 15044, 15046
and 15047 of 2019

PETITIONER(s) :

Muthukumari	... Petitioner(s) in WP(MD). 25158/ 2018
Bhagavathi Ammal	... Petitioner(s) in WP(MD). 25159/ 2018
Sundari Bai	... Petitioner(s) in WP(MD). 25160/ 2018
Kanagammal	... Petitioner(s) in WP(MD). 25161/ 2018
N.Sankaran	... Petitioner(s) in WP(MD). 18668/ 2019
S.Kasali	... Petitioner(s) in WP(MD). 18669/ 2019
A.Subramaniam	... Petitioner(s) in WP(MD). 18670/ 2019
K.Karuthapandian	... Petitioner(s) in WP(MD). 18671/ 2019
K.Antonyraj	... Petitioner(s) in WP(MD). 18672/ 2019
M.Kathiravan	... Petitioner(s) in WP(MD). 18674/ 2019

/ VERSUS /

RESPONDENTS :

1. The Principal Secretary to Government,
Rural Development and PanchayatRaj Department,
Secretariat, Chennai-9.
2. The Director,
Rural Development and Panchayat Raj Department,
Panagal Building, Saidapet, Chennai-15.
3. The District Collector,
Tirunelveli District , Tirunelveli.
... Respondent(s) in WP(MD). 25158 to 25161 / 2018
and 18668 to 18672 and 18674 / 2019



Prayer in WP(MD). 25158 to 25161 / 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the Respondent No.2 in proceedings Na.Ka.No.43631/2018/C3 dated 13.12.2018 and quash the same and consequently direct the Respondent No.2 to allow the petitioner to continue as Zonal Deputy Block Development Officer, Papakudi Zone No.3, Tirunelveli District..

Prayer in WP(MD). 18668/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Calling for the records of the impugned order passed by the 3rd respondent in his proceeding Na.Ka.No.N2/39371/2017-2 dated 16.08.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to continue as Deputy Block Development Officer, Zone No.3, Papakudi, Tirunelveli District

Prayer in WP(MD). 18669/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.N2/39371/2017-(4) dt.16.8.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to continue as Deputy Block Development Officer, Zonal Deputy Block Development Officer, Kalakkad Panchayat Union, Tirunelveli District.

Prayer in WP(MD). 18670/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.N2/39371/2017-(6) dt.16.8.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to continue as Deputy Block Development Officer, Panchayat Union Office, Nanguneri, Tirunelveli District.

Prayer in WP(MD). 18671/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.N2/39371/2017-(1) dt.16.8.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to



continue as Deputy Block Development Officer, Headquarters Deputy Block Development Office, Sankarankovil, Tirunelveli District.

Prayer in WP (MD) . 18672/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Calling for the records of the impugned order passed by the 3rd respondent in his proceeding Na.Ka.No.N2/39371/2017-(5) dated 16.08.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to continue as Deputy Block Development Officer, Zonal Deputy Block Development Office, Melaneelithanallur, Tirunelveli District

Prayer in WP (MD) . 18674/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.N2/39371/2017-(3) dt.16.8.2019 and quash the same and consequently directing the 3rd respondent to allow the petitioner to continue as Deputy Block Development Officer, Zone-3, Kalakkad, Panchayat Union Office, Tirunelveli District.

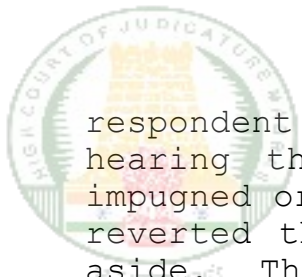
For Petitioner	: Mr.S.M.A.Jinnah (in W.P. (MD)Nos.25158 to 25161 of 2018)
For Petitioner	: Mr.R.Singaravelan, Senior Counsel, for Mr.D.Selvanayagam (in W.P. (MD)Nos.18668 to 18672 and 18674 of 2019)
For Respondents	: Mr.C.M.Mari Chellaiah Prabhu, : Additional Government Pleader. (in all Writ Petitions)

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.

2.The petitioners in W.P.(MD)Nos.25158 to 25161 of 2018 are challenging the order of the second respondent, dated 13.12.2018.

3.The learned counsel appearing for the petitioners contended that the second respondent has not considered G.O.Ms.No.124, Personnel and Administrative Reforms (P) Department, dated 12.09.2009, which gave service benefits to the petitioners. The second respondent ought to have issued prior notice to the petitioners before passing the impugned order. The second



respondent is not correct in passing the reversion order without hearing the petitioners. The second respondent has passed the impugned order, without providing opportunity to the petitioners and reverted them. Therefore, the impugned order is liable to be set aside. The action of the second respondent is in violation of the fundamental rights of the petitioners, guaranteed under Article 21 of the Constitution of India.

4.The learned Additional Government Pleader appearing for the respondents contended that the second respondent has received complaints from the directly appointed Assistants that some ineligible persons were included in the panel for promotion to the post of Deputy Block Development Officer. On receipt of the said complaints, the second respondent called for service details and service register of the persons promoted during the years 2016, 2017 and 2018 and found some defects in preparation of the panel. Therefore, the second respondent, by the impugned order dated 13.12.2018, instructed the third respondent to rectify the said defects. The same is not issued to the petitioners. The present Writ Petitions filed challenging the order of the second respondent dated 13.12.2018, addressed to the third respondent, are premature and the same are not maintainable.

5.The petitioners in W.P.(MD)Nos.18668 to 18672 and 18674 of 2019 are challenging the order of the third respondent dated 16.08.2019.

6.The learned Senior Counsel appearing for the petitioners contended that the impugned order passed by the third respondent is abuse of process of law and non-application of mind. The third respondent has not considered the interim stay granted by this Court in W.P.(MD)Nos.25158 to 25161 of 2018. The impugned notice of the third respondent is pre-determined and the Writ Petitions filed by the petitioners, challenging the show cause notice are maintainable. The order passed by the third respondent is against the provisions of Section 40(2) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the letter issued by the first respondent, dated 21.12.2017 contradicts the same. He relied on the judgment of the Hon'ble Supreme Court of India in the case of **Siemens Limited, Vs. State of Maharashtra and others** reported in **2006 (12) SCC 33**.

7.The respondents filed counter affidavit, denying the averments made by the petitioners. The learned Additional Government Pleader appearing for the respondents submitted that this Court has granted interim stay on 20.12.2018 till 04.01.2019 and subsequently, the interim order was not extended. The third respondent has issued the impugned show cause notice, calling upon the petitioners to submit their objections, if any. If the petitioners are aggrieved by the said order, the petitioners have a right to file an appeal to the first respondent.



8. Heard Mr.S.M.A.Jinnah, learned counsel appearing for the petitioners in W.P.(MD)Nos.25158 to 25161 of 2018 and Mr.R.Singaravelan, learned Senior Counsel appearing for the petitioners in W.P.(MD)Nos.18668 to 18672 and 18674 of 2019 and Mr.C.M.Mari Chellaiah Prabhu, learned Additional Government Pleader appearing for the respondents and perused the materials on record carefully.

9.As far as the first batch of Writ Petitions i.e., W.P.(MD) Nos.25158 to 25161 of 2019 is concerned, the second respondent has received complaints, regarding the irregularities committed in preparing the panel for promotion to the post of Deputy Block Development Officer during the years 2016, 2017 and 2018. On verification of all the records, the second respondent has found certain irregularities, pointed out those irregularities to the third respondent and instructed the third respondent to rectify the same. Only when the third respondent passes an order, the petitioners will have a cause of action to challenge the said order as per law. Admittedly, in the present case, the third respondent has passed a reversion order dated 19.11.2018 and challenging the same, some petitioners have filed W.P.(MD)Nos.722 to 725 of 2019 and the same are pending. In view of the same, W.P.(MD)Nos.25158 to 25161 of 2018 are all dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.As far as the second batch of Writ Petitions i.e., W.P.(MD)Nos.18668 to 18672 and 18674 of 2019 is concerned, the third respondent has issued impugned show cause notice, calling upon the petitioners to submit their objections, if any, within 7 days from the date of receipt of the said impugned notice. In all the show cause notices, the third respondent has mentioned the defects pointed out by the second respondent and now, it is for the petitioners to submit their explanations and objections, stating as to how the action proposed to be taken by the third respondent is erroneous. Further, the learned Senior Counsel appearing for the petitioners has not denied the contention of the learned Government Advocate appearing for the respondents that the petitioners have a right to file an appeal to the Government, if they are aggrieved by the order passed by the third respondent.

11.In view of the same, W.P.(MD)Nos.18668 to 18672, 18674 of 2019 are all dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)



To

WEB COPY

1. The Principal Secretary to Government,
Rural Development and Panchayat Raj
Department,
Secretariat, Chennai-600 009.
2. The Director,
Rural Development and Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai-600 015.
3. The District Collector,
Tirunelveli District,
Tirunelveli.

+6cc to Mr.D.Selvanayagam, Advocate SR.No.90170
+1cc to SPL.GP SR.No.90255

W.P. (MD) Nos.25158 to 25161 of 2018
and
W.P. (MD) Nos.18668 to 18672 and 18674 of 2019
26.09.2019

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