



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.11418 of 2017

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M.Muruganandam

... Petitioner

-Vs-

1.The State of Tamil Nadu

Represented by is Principal Secretary
Rural Development and Panchayat Raj Department
Secretariat, Chennai 600 009

2.The Commissioner

Rural Development and Panchayat Raj Department
Panagal Building
Saidapet, Chennai 600 015

3.The District Collector

Thoothukudi District
Thoothukudi

4.The Commissioner

Srivaikundam Panchayat Union

(Respondent No.4 is suo motu impleaded vide
Court order dated 30.01.2019)

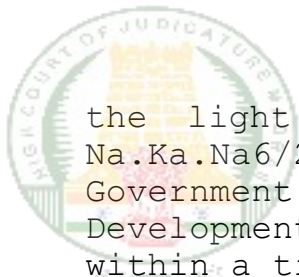
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd and 3rd respondents to permanently absorb the petitioner in the post of record Clerk based on the willingness given on 09.07.2013 in the light of the proceedings issued by the 3rd respondent in Na.Ka.Na6/24686/13, dated 08.07.2013 on the strength of the Government Order made by the 1st respondent in G.O.Ms.No.38, Rural Development and Panchayat Raj (E5) Department dated 03.05.2013 within the time limit that may be stipulated by this Court.

For Petitioner	: Mr.K.R.Laxman
For R1 to R3	: Mr.V.R.Shanmuganathan Special Government Pleader
For R4	: No appearance

ORDER

This Writ petition has been filed for a direction to the 2nd and 3rd respondents to absorb the petitioner in the post of record Clerk permanently based on the willingness given on 09.07.2013 in



the light of the proceedings issued by the 3rd respondent in Na.Ka.Na6/24686/13, dated 08.07.2013, on the strength of the Government Order made by the 1st respondent in G.O.Ms.No.38, Rural Development and Panchayat Raj (E5) Department dated 03.05.2013, within a time limit stipulated by this Court.

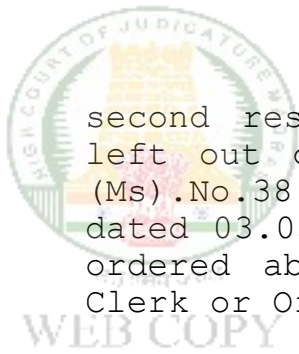
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2.The petitioner is the Diploma Holder in Mechanical Engineering and was appointed in the third respondent Department as NMR Technical Assistant on 16.10.1996 in Srivaikuntam Panchayat Union. Number of persons are appointed as Technical Assistants, who were working as NMR. The second respondent by way of telex message directed all the District Collectors not to appoint any Technical Assistant after 01.04.1997 as NMR. The petitioner was appointed as NMR on 16.10.1996 before the cut-off date fixed by the second respondent. The petitioner and others were allowed to continue, as they were appointed prior to the cut-off date. The petitioner herein and similarly placed persons have filed W.P(MD).No.11728 of 2006 for absorbing them in the regular vacancy. This Court, by order dated 09.05.2007, allowed the Writ petition and directed the respondents therein to consider the case of the petitioner and similarly placed persons in the regular vacancy, if those possess requisite qualifications. Based on the order passed by this Court, the first respondent issued G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department, dated 14.01.2008, absorbed 255 persons, who have passed ITI in Civil Draughtsmen, Diploma in Civil Engineering and B.E., in Civil Engineering only as Road Inspector, Grade-II. The persons, who did not possess Diploma in Civil Engineering, but were possessing SSLC qualification and other Diploma qualification were considered for the post of Record Clerk and Office Assistant. The first respondent issued G.O.(Ms).No.38, Rural Development and Panchayat Raj (E5) Department dated 03.05.2013 to absorb them. The petitioner was one among them and he was placed at Serial No.54 in the said G.O. The second respondent sought for willingness from the petitioner and others to work in the other Districts. The petitioner gave willingness to work in the other Districts also. The second respondent did not issue any appointment order. Some of the persons filed W.P.No.4879 of 2014 to implement G.O(Ms).No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013. This Court disposed the said Writ petition and thereafter, the second respondent absorbed the persons, who have filed Writ petition, but did not absorb the petitioner. In such circumstances, the petitioner has come up with the present Writ petition.

3.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3.

4.From the materials on record, it is seen that the first respondent by G.O(Ms).No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013, has ordered absorption of the

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second respondent issued appointment only to certain persons and left out others including the petitioner and not implemented G.O (Ms).No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013, fully. The first respondent, by the said G.O, has ordered absorption of persons including the petitioner as Record Clerk or Office Assistant.

5.Considering the fact that the petitioner was placed at Sl.No.54 in G.O(Ms).No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013, for being absorbed, the second respondent is directed to consider the representation of the petitioner taking into account the Government Order in G.O.Ms.No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013 and appoint the petitioner as Record Clerk or Office Assistant, based on the qualification of the petitioner, within a period of four weeks from the date of receipt of a copy of this order and fix the service benefit of the petitioner from the date of issuance of G.O(Ms).No.38 Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013 and grant the monetary benefits accordingly from the date of appointment order.

6.With the above directions, this Writ petition is allowed.
No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

msa

To

- 1.The Principal Secretary
State of Tamil Nadu
Rural Development and Panchayat Raj Department
Secretariat, Chennai 600 009
- 2.The Commissioner
Rural Development and Panchayat Raj Department
Panagal Building
Saidapet, Chennai 600 015
- 3.The District Collector
Thoothukudi District
Thoothukudi



4. The Commissioner
Srivaikundam Panchayat Union

+3 CC to Mr.K.R.LAXMAN, Advocate SR-100232,100255

+1 CC to Spl.GP (SR-100573[F] dated 22/11/2019)

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21.11.2019

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