



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5889 of 2014

and

M.P. (MD) .No.1 of 2014

WEB COPY

S.Kongaiah

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai Division,
Sivagangai.

2.The Tahsildar,
Sivagangai Taluk,
Sivagangai.

3.J.Maran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent relating to the impugned proceedings in ROC.B2/8558/2012, dated 28.02.2014 and quash the same and consequently direct the respondents to appoint the petitioner as Village Assistant in respect of Puliyangulam Group, Sivagangai Taluk, within a specified time frame.

For petitioner

: Mr.S.Visvalingam

For respondents 1 & 2

: Mr.S.Dhayalan,
Government Advocate

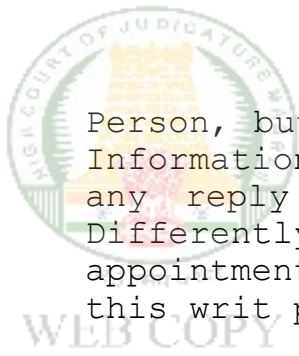
For 3rd respondent

: Mr.T.R.Jeyapalam

ORDER

This writ petition has been filed by the petitioner challenging the appointment order of the third respondent dated 28.02.2014.

2. The learned counsel for the petitioner submitted that the petitioner is a native of Sivagangai Town and he is a differently abled person. The petitioner's name was sponsored through District Employment Exchange, Sivagangai for the post of Village Assistant and the Tahsildhar, Sivagangai conducted interview on 26.02.2014. Thereafter, he did not receive any information as to the selection. Under the Right to Information Act, the Head Quarters Deputy Tahsildhar, Sivagangai, has given an information that the petitioner has not been selected on the ground that he is junior in the Employment Exchange to the third respondent. The petitioner learnt that the Village Puliyankulam is earmarked for Differently Abled



Person, but the third respondent is an Ex-service Man. The General Information Officer of the Taluk Office purposefully did not give any reply as to whether Puliyangulam Village is earmarked for Differently Abled Person or Ex-service Man. Hence, questioning the appointment order of the third respondent, the petitioner has filed this writ petition.

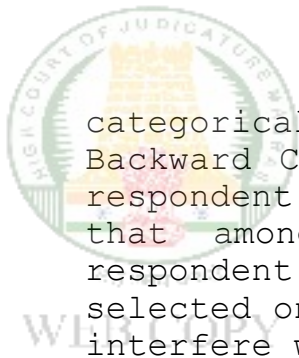
3. The learned counsel for the petitioner would further submit that the seniority in the employment registration cannot be a criteria for the selection of Village Assistant. The Village Puliyangulam has actually been earmarked for Differently Abled Person. As the petitioner is a differently abled person, he ought to have been appointed by the second respondent. But, the third respondent was appointed only on the ground of employment seniority. As the third respondent was appointed over looking the merits of the petitioner, a direction may be issued to appoint the petitioner in any one of the vacant post in Sivagangai Taluk, without disturbing the appointment of the third respondent.

4. The learned Government Advocate appearing for the respondents 1 and 2 submitted that the post of the Village Assistant of Puliyankulam Village was earmarked only for Backward Classes category and both the petitioner and the third respondent belong to BC category. The contention that the petitioner was not selected due to his placement in the Employment Seniority List, is false. The petitioner was not selected since he is not a resident of the duty Village but a permanent resident of Kanchipatty Village, which is 28 kms away from the duty Village and his temporary address in Sivagangai Town is also 15 kms away from the duty Village, whereas the third respondent is residing in the same Revenue village. Among the candidates appeared for interview on 26.02.2014, the third respondent alone was found to be more suitable and hence, he was selected on merit and ability. The interview and the selection process was conducted in a fair and transparent manner and also done in accordance with the existing rules in force. Thus, he prayed to dismiss this writ petition.

5. The learned counsel appearing for the third respondent reiterated the above submission of the learned Government Advocate and prayed to dismiss this writ petition.

6. Heard the learned counsel for both sides and perused the records carefully.

7. Though it is submitted by the petitioner that the third respondent was appointed only on the basis of employment seniority and that the appointment of the third respondent is illegal as Puliyankulam Village was earmarked only for Differently Abled Persons, there is no document produced by the petitioner in order to substantiate the same. Whereas, the learned Government Advocate



categorically stated that Puliyankulam Village was earmarked for Backward Classes Category and the petitioner as well as the third respondent who belong to BC category were called for interview and that among the candidates appeared for interview, the third respondent alone was found to be more suitable and hence, he was selected on merit and ability. Hence, this Court is not inclined to interfere with the impugned order.

8. At this juncture, the learned counsel for the petitioner requested this Court to direct the official respondents to consider the appointment of the petitioner in any other Village. Whereas, the learned Government Advocate submitted that as there are selection process for appointment, the petitioner cannot be accommodated in any other vacancy.

9. In the result, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Crl Side)

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/ /2020

Sub Assistant Registrar(CS)

gcg

To

1.The Revenue Divisional Officer,
Sivagangai Division,
Sivagangai.

2.The Tahsildar,
Sivagangai Taluk,
Sivagangai.

+1cc to M/s.Special Government Pleader, SR No.3368
• 1cc to Mr.T.R.Jeyapalam ,Advocate, SR No.3210
+1 cc to Mr. S.SIVALINGAM,Advocate, SR No.3198

W.P. (MD) No.5889 of 2014
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