



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.10539 of 2021

and

W.M.P (MD)Nos.8206 & 8207 of 2021

WEB COPY

M.Subramanian

... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.Personal Assistant (Development)
To the District Collector,
Tenkasi District,
District Collectorate,
Tenkasi.

3.The Block Development Officer,
(Village Panchayat),
Keelapavoor Panchayat Union,
Tenkasi District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in his proceedings No.நா.க.எண்.நு12/26990/2018, dated 05.07.2019 and quash the same as non-application of mind and consequently direct the respondents to consider the appointment of the petitioner as Panchayat Clerk in any one of the vacancy in the Panchayats under the control of the third respondent's Panchayat Union.

For Petitioner : Mr.T.Ramasamy

For R1 & R2 : Mr.P.Subbaraj

Government Advocate

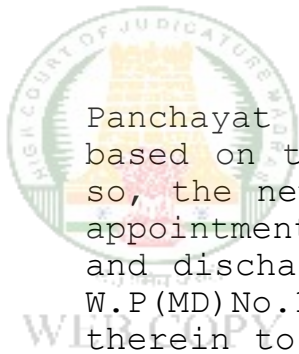
For R3 : Mr.K.S.Selvaganesan

Government Advocate

ORDER

This writ petition is filed to quash the order of the first respondent, dated 05.07.2019, made in No.eh.f.vz;.q12/26990/2018 and consequently direct the respondents to consider the appointment of the petitioner as Panchayat Clerk in any one of the vacancy in the Panchayats under the control of the third respondent's Panchayat Union.

2. The case of the petitioner is that, he worked as part time
<https://hcservices.ecourts.gov.in/hcservices/>



Panchayat Clerk from 1998 in the Aayirapperi Village Panchayat, based on the resolution of the Panchayat, dated 14.03.1998. While so, the newly elected President of said Panchayat, in order to give appointment to her brother, did not permit the petitioner to work and discharge his duties. The petitioner filed a writ petition in W.P(MD)No.13394 of 2013 seeking a direction to the respondents therein to give placement in the post of Panchayat Secretary in any one of the Village Panchayat under the jurisdiction of the third respondent therein, based on his representation, dated 15.07.2013. This Court, by order, dated 14.08.2013, dismissed the said writ petition. Aggrieved over the same, the petitioner has filed W.A(MD) No.218 of 2017. This Court, by judgment dated 12.06.2017, dismissed the said writ appeal. Thereafter, the petitioner sent representation to the District Collector, Tirunelveli District and the Block Development Officer, Kadayam Panchayat Union, on 12.02.2018, requesting them to give appointment in any one of the vacancy in the Panchayats under the jurisdiction of Kadayam Panchayat Union.

3. The petitioner also applied for the post of Panchayat Clerk on 29.03.2018, to the Block Development Officer, Kadayam Panchayat Union. He was not considered for selection. Since the representation of the petitioner was not considered, the petitioner has filed a writ petition in W.P(MD)No.10258 of 2018. This Court, by order, dated 03.04.2019, directed the respondents to consider the representation/application of the petitioner, dated 29.03.2018, and pass orders within a period of eight weeks from the date of receipt of a copy of that order. As per the order of this Court, the first respondent called the petitioner for enquiry. The petitioner produced the documents and gave a statement. Without considering the same, the first respondent rejected the request of the petitioner. Challenging the said order of rejection, the petitioner has come out with the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the order of rejection of the first respondent is arbitrary and illegal. The first respondent has passed a non-speaking order and prayed for allowing the writ petition.

5. Heard the learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 & 2 and Mr.K.S.Selvaganesan, learned Government Advocate appearing for the third respondent and perused the materials available on record.

6. From the materials on record, it is seen that earlier the petitioner was terminated from service on 24.11.2003, for certain misconduct, by the President of Aayiramperi Panchayat. The petitioner did not challenge the said order of termination, but he filed a writ petition in W.P(MD)No.13394 of 2013 after 10 years of



termination, for a direction to the respondents to give placement in the post of Panchayat Secretary in any one of the Village Panchayat under the jurisdiction of the third respondent, based on the petitioner's representation, dated 15.07.2013. This Court, by order, dated 14.08.2013 dismissed the writ petition stating that the petitioner was terminated from service and without challenging the order of termination, the writ petition filed by the petitioner is not maintainable. The writ appeal in W.A(MD)No.218 of 2017 filed after four years of dismissal of the writ petition, was also dismissed by the Division Bench of this Court, dated 12.06.2017. Subsequently, the petitioner gave representation to the District Collector, Tirunelveli District, on 29.01.2018, to give appointment as Panchayat Clerk in any of the Panchayat under the control of the third respondent. As per the orders of this Court, dated 03.04.2019 in W.P(MD)No.10258 of 2018, the District Collector, Tirunelveli District, conducted an enquiry, the petitioner appeared for enquiry, produced documents and gave statement before the District Collector, Tirunelveli District. The District Collector, Tirunelveli, rejected the petitioner's representation by the impugned order, dated 05.07.2019. The petitioner has challenged the said order after two years of rejection.

7. A reading of the impugned order shows that the District Collector, Tirunelveli District has considered the order of termination of the petitioner in the year 2003, order of this Court, dated 14.08.2013 made in W.P(MD)No.13394 of 2013, representation of the petitioner, documents filed by the petitioner and his statement, has given valid reason for not accepting the request of the petitioner.

8. From the impugned order, it is seen that the petitioner is aged about 45 years and he is over aged for appointment to the post sought for by him. Further, he was earlier terminated for certain misconducts in the year 2003. The District Collector, Tirunelveli District has considered all the materials in proper perspective and by a speaking order, giving cogent and valid reason, held that the request of the petitioner cannot be accepted. There is no error in the order of the District Collector, Tirunelveli District. The contention of the learned counsel for the petitioner that the impugned order is a non-speaking order, is not correct.

9. In view of the above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

/ /2021

Sub Assistant Registrar(CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The District Collector,
Tenkasi District,
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2.Personal Assistant (Development)
To the District Collector,
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(Village Panchayat),
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Tenkasi District.

+1 CC to M/s.T.CIBI CHAKAROBORTHY, Advocate (SR-20089[F] dated 24/06/2021)

+1 CC to M/s.SPL GP (SR-20322[F] dated 25/06/2021)

W.P. (MD)No.10539 of 2021
24.06.2021

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