



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

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**THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A.(MD)Nos.1598 and 1879 of 2021
and C.M.P.Nos.6792 and 8285 of 2021

W.A. (MD)No.1598/2021 :

V.Bhavani Priya .. Appellant/Respondent 3

Vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

.. Respondents 1 and 2/
Respondents 1 and 2

3. M.Ramanathan

.. Respondent 3/Petitioner

W.A. (MD)No.1879/2021 :

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

.. Appellants/Respondents 1 and 2

Vs.

M.Ramanathan

.. Respondent 1/Writ Petitioner

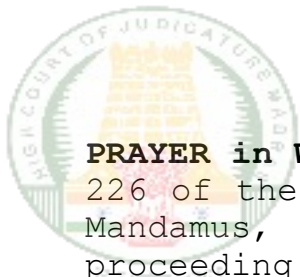
V.Bhavani Priya

.. Respondent 2/Respondent 3

* * *

Common Prayer : Writ Appeals filed under Clause 15 of Letters Patent against the order dated 06.07.2021 passed in W.P.(MD)No.19575 of 2020.

<https://hcservices.ecourts.gov.in/hcservices/>



PRAYER in WP(MD).19575 of 2020: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in his proceeding in Na.Ka.No.A1/583/2020, dated 10.11.2020 and quash the same against the third respondent, who was appointed as Village Headman and insert the petitioner in the place of the third respondent.

* * *

For Appellant in WA : Mr.Ajmalkhan, Senior Counsel
(MD)No.1598 of 2021/ for Mr.R.Gandhi
For Respondent 2 in
WA (MD)No.1879/2021

For Appellats in WA : Mr.P.Thilakkumar,
(MD)No.1879 of 2021/ Government Pleader for RR 1 and 2
For Respondents 1 & 2
in WA (MD)No.1598/2021

For Respondent 3 in WA: Mr.R.Singaravelan, Senior Counsel
in WA (MD)No.1598/2021/ for Mr.P.Arun Jayatram
For Respondent 1 in WA
(MD)No.1879/2021

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.)

The State and the private respondent in the writ petition are before this Court with these appeals questioning the propriety of the order of the learned Single Judge dated 06.07.2021 passed in W.P.(MD)No.19575 of 2020.

2. The parties herein would be referred to as per their ranking before the writ Court.

3. The writ petitioner has impaired vision, while the third respondent has 75% permanent locomotor disability. The second respondent issued notification dated 26.06.2020 calling for applications to fill up 16 posts of Village Assistants, of which, Sl.No.7 pertains to Pattamangalam village, which is earmarked for roster point 59 - General (Blind) Non-Priority. The petitioner and the third respondents have applied for the same. According to them, both are qualified to hold the post. The candidates were called for interview on 04.09.2020, in which, the third respondent was selected and appointed on the ground that "no eligible blind candidate was available". The petitioner questioned the same before this Court and by the impugned order, his writ petition was allowed and the order of appointment issued favoring the third respondent was quashed with



a further direction to the second respondent to appoint the petitioner.

4. The third respondent filed WA (MD)No.1598 of 2021 seeking to sustain her appointment by quashing the impugned order. According to her, riding a bicycle is a condition precedent for selection, but the writ petitioner, who suffers from 90% disability, cannot ride the bicycle and hence, he is not eligible for consideration and in such circumstances, in terms of G.O.Ms.No.76, Personnel and Administrative Reforms (S) Department, dated 19.06.2009, the appointing authority can appoint an eligible person from other physically handicapped category. Thus, her appointment is in terms of the guidelines of the Government and she has been performing her duties for the past eight months even in pandemic situation and also during the election to the State Legislature, and the same ought not to have been interfered with by the Writ Court.

5. The State filed WA(MD)No.1879 of 2021 contending that the writ petitioner suffers from 90% of visual impairment and he can only read and write, and he cannot ride bicycle, which is a basic eligibility for selection and among the five candidates, one more blind person also attended the interview. Since both of them were not found suitable, in terms of G.O.Ms.No.76, dated 19.06.2009, the third respondent in the writ petition was appointed, which fact is recorded in the file notes and as such, the appointment of the third respondent is on the ground that there were no suitable and eligible reserved candidate, i.e., visually impaired candidate, available and not on the ground that no blind candidate was available. It is submitted that since the writ petition was allowed at the admission stage itself, they could not place these facts before the learned Single Judge.

6. The writ petitioner resisted the appeals contending that without assigning any valid reason his candidature was not considered by the second respondent and as such, it is clear that only to favour the third respondent, the official respondents failed to consider his case. It is his case that from the year 2017, he is having valid driving licence and the third respondent herself admitted that the petitioner can read and write and as such, he is fully qualified to hold the post, whereas, the third respondent is a native of another village, which is a disqualification under Rule 7 (c) of the Special Rules governing the Tamil Nadu Village Assistants, as has been incorporated in Section 53 in Volume III of the Tamil Nadu Services Manual, 1987 (in short, "the Special Rules"). Thus, he sought to sustain the impugned order.

7. Heard the learned Senior Counsel appearing on behalf of the writ petitioner and the third respondent and the learned Government Pleader appearing on behalf of the State.



8. There is no factual dispute among the parties. Rule 4 of the Special Rules stipulates that the rule of reservation of appointment as laid down in rule 22 of the General Rules for the Tamil Nadu State and Subordinate Services shall apply for the appointment to the post by direct recruitment treating each taluk as a separate unit. The parties fulfill age and educational qualification criteria. Rule 7 of the said Rules is relevant, which reads thus :

"7. Other Qualification :-

a. No person shall be eligible for appointment to the post unless-

- i. he is able to ride a bicycle ;
- ii. he satisfied the appointing authority that the character and antecedents are such as to qualify him for the post ; and
- iii. produces a certificate regarding his physical fitness for the post in the Form prescribed under rule 10 of the Fundamental Rules.

b. No person shall be eligible for appointment to the post if he has more than one spouse living or if such a person has entered into or contracted marriage with a person having a spouse living.

c. The person appointed to the post shall belong to the village to which he is appointed or the adjoining village if no suitable candidate is available from that Village."

9. While the third respondent alleged that the petitioner could not fulfill Rule 7(a)(i), the petitioner alleged that the third respondent did not qualify Rule 7(c) of the Special Rules. Admittedly, the only reason for selecting the third respondent is non-availability of suitable candidates under the reserved category earmarked for the post. When the petitioner meets the eligibility conditions, it is not clear on what basis such a stand is taken by the official respondents. The sole reason assigned by the respondents 1 and 2 that the writ petitioner suffers from 90% of visual impairment and he can only read and write and he cannot ride bicycle cannot be put against him, as he categorically asserted that he is having a valid driving licence to drive two wheelers. From the above, it is clear that the second respondent failed to produce any material as to how they assessed as to the fulfillment of the conditions by the petitioner, which goes to show that they simply ignored the blind candidates under the guise that they cannot ride bicycle.

10. When the rule of reservation provides for a particular roster point, without examining the suitability of the candidate, his candidature cannot be rejected and the roster point cannot be given to other roster candidate.



11. Rule 7(a)(iii) mandates that no person shall be eligible for appointment to the post unless he produces a certificate regarding his physical fitness for the post in the Form prescribed under rule 10 of the Fundamental Rules. The medical certificate produced before this Court in the form of typed-set of papers is not specific about the physical fitness of the petitioner to hold the post. The official respondents cannot brand the petitioner as medically unfit relying on the same. In such circumstances, we are of the view that the writ Court rightly allowed the writ petition and issued the directions. We do not find any illegality or infirmity in the impugned order.

12. In the result, these writ appeals are dismissed, as devoid of merits. The order of the learned Single Judge shall be complied with the second respondent/second appellant within a period of four weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

+1 CC to M/s.R. GANDHI, Advocate (SR-35552[F] dated 23/11/2021)

+1 CC to M/s.P. ARUN JAYATRAM, Advocate (SR-35927[F] dated
25/11/2021)

+1 CC to Mr. Special Government Pleader, SR.No. 35643

W.A.(MD)Nos.1598 & 1879 of 2021
23.11.2021

SJ(CO)

TR(13.12.2021) 5P 6C