



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P. (MD) No.1498 of 2018

M.Mohamed Jakaria

... Petitioner

Vs.

1.The District Collector,
Madurai District Collector Office,
No.6, R.M.S.Road,
RMS Road, Pandi Bazaar,
Pandi Bazaar, Madurai - 625 001.

2.The Block Development Officer,
Madurai East Taluk,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the first respondent to dispose the petitioner's representation dated 29.12.2017 by allowing the petitioner to re-join duty to the post of Village Panchayat Secretary/Clerk in existing vacancy place within Madurai District with the time stipulated by this Court.

For Petitioner	:	Mr.D.Selvanayagam
For R1	:	Mr..K.S.Selvaganesan
		Standing counsel for State
For R2	:	No appearance

O R D E R

Read this order in conjunction with the order passed by me on 09.11.2021, extracted below:

"Heard, Mr.D.Selvanayagam, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Government Pleader appearing for the first respondent/State.

2.The petitioner has sought a Mandamus, directing the first respondent to dispose his representation dated 29.12.2017, allowing him to re-join duty to the post of Village Panchayat Secretary/Clerk. The Mandamus as sought for is not liable to be granted for the simple reason that the representation dated 29.12.2017 has been only filed before the second respondent and thus, the question of directing the first respondent to dispose the same, does not arise.

3.That apart, the case of the petitioner is

https://hcservices.ecourts.gov.in/hcservices/ although he sought voluntary retirement on



29.12.2017 before the first respondent, the request has not been considered and accepted and thus the petitioner believes that he must be permitted to re-join the same post or be furnished employment in any other equivalent vacancy.

WEB COPY

4. Per contra, the second respondent has filed counter along with a compilation of documents dated 25.04.2016 enclosing a copy of the Resolution passed by the Sakkimangalam Village Panchayat Council in Resolution No.13 dated 25.04.2016. The petitioner would contest the Resolution on the ground that the same has not been served upon him, whereas, learned Government Pleader appearing for the first respondent would counter that there is no necessity for such service, since the Resolution only records the acceptance of the petitioner's request.

5. Be that as it may, seeing as the prayer is only for disposal of the representation dated 29.12.2017, and the representation is itself nothing more than a mercy petition, it would suffice that Mr.K.S.Selvaganesan, learned Standing counsel for the first respondent is directed to get instructions in regard to the vacancies, if any, in the post of Village Panchayat Secretary/Clerk and report to this Court. Cost of Rs.2,000/- is imposed upon learned counsel appearing for the petitioner payable to Advocate's Welfare Fund. Proof be filed prior to 11.11.2021."

2. In compliance with the abovesaid order, cost has been paid and memo is placed on record.

3. Today, Mr.K.S.Selvaganesan, learned Standing Counsel appearing for the State would confirm vide written instruction in Na.Ka.No.233/2018/T7 dated 10/11/2021 that there are two(2) vacancies for the post of Village Panchayat Secretary/Clerk in Panaikulam and Karcheri, for which, the petitioner may be considered, if he is otherwise qualified.

4. He circulates a copy of the Tamil Nadu Village Panchayat Secretaries (conditions of Service) Rule 2013, which deals with the appointment of Village Panchayat Secretary. Rule-3 deals with 'Appointment', and Clause-3 is extracted below:

"3.Appointment (1) Appointment to the post of Village Panchayat Secretary shall be made by direct recruitment though Employment Exchange:

(2) The Personal Assistant (Development) to the

Collector shall call for a list of suitable



candidates from the District Employment Office for appointment to the post of Village Panchayat Secretary duly indicating the qualifications and the name of the Village Panchayat

(3) The District concerned shall be the unit for applying as per law orders in force in the State for appointment on the basis of communal/women reservation for the post of Village Panchayat Secretary.

(4) A Village Panchayat Secretary shall be appointed through the Appointment Committee consisting of Personal Assistant (Development) to the Collector the Assistant Director (Panchayats) and the Block Development Officer (Village Panchayats) of the Block Concerned."

5. Sub Rules (1) and (2) of Rule 3 are not relevant in this case as this is not a case of original or direct appointment, but rather, a case of re-employment to a post that the petitioner was holding till recently.

6. Thus, all that is needed is to direct the Appointments Committee envisaged under Rule 3(4) to consider the appointment of the petitioner to the post of Village Panchayat Secretary upon his making a suitable application. To this effect, the petitioner is permitted to make an application to the Appointments Committee within a period of three(3) weeks from today.

7. Upon receipt of the aforesaid application, the Appointments Committee, comprising the Personal Assistant (Development) to the Collector, the Assistant Director (Panchayats) and the Block Development Officer (Village Panchayats) of the concerned blocks, shall consider the application, call upon the petitioner for details, if required, and consider his appointment in one of the two available vacancies, favourably, upon condition that the petitioner holds the requisite qualifications.

8. Let the aforesaid exercise be completed within a period of four(4) weeks from date of receipt of the petitioner's application.

9. This Writ Petition stands disposed with the above directions. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM



To

1.The District Collector,
Madurai District Collector Office,
No.6, R.M.S.Road,
RMS Road, Pandi Bazaar,
Pandi Bazaar, Madurai - 625 001.

2.The Block Development Officer,
Madurai East Taluk,
Madurai.

+1 CC to M/s.D.SELVANAYAGAM, Advocate(SR-34180[F] dated
11/11/2021)

+1 CC to M/s.SPL.GP (SR-34253[F] dated 12/11/2021)

W.P. (MD) No.1498 of 2018

11.11.2021

MGJ(30.11.2021) 4P 5C