



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4115 of 2017

M.Marimuthu

.. Petitioner

Vs

1.The District Collector cum Inspector of Panchayats,
Thoothukudi District,
Thoothukudi.

2.The Block Development Officer,
Village Panchayats,
Kovilpatti Panchayat Union,
Thoothukudi District.

3.Thonugal Village Panchayat,
Kovilpatti Taluk,
Thoothukudi District,
rep. by its Special Officer.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent herein to disburse the salary to the petitioner from September 2013 to till date based on the proceedings of the 3rd respondent dated 01.07.2016.

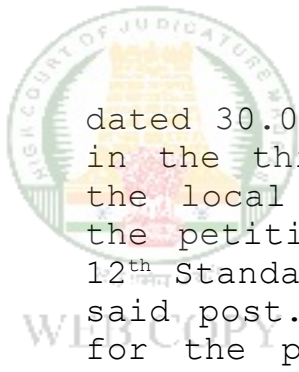
For Petitioner : Mr.G.Thalai Mutharasu

For Respondent Nos.1 to 3 : Mr.A.Karthik
Government Advocate

O R D E R

The prayer sought for in the present writ petition is for a direction to the 2nd respondent herein to disburse the salary to the petitioner from September 2013 to till date based on the proceedings of the 3rd respondent dated 01.07.2016.

2. The case of the petitioner is that the petitioner was appointed as Panchayat Secretary of the 3rd respondent Panchayat



dated 30.07.2012. As there was a vacancy for the post of Secretary in the third respondent Panchayat, a Notification was issued in the local Daily for application from eligible candidates. Since the petitioner was possessing the eligible qualification, namely 12th Standard and belongs to Schedule Community, he applied for the said post. The Appointment Committee had selected the petitioner for the post of Secretary and the same was placed before the Village Panchayat Council Meeting and by its resolution dated 30.07.2012, The Village Panchayat Council has approved the appointment of the petitioner as Secretary of third respondent village Panchayat. As per the resolution, the petitioner joined duty as Secretary in the third respondent Panchayat on 01.8.2012. The third respondent Panchayat paid salary to the petitioner on 1.8.2012 to 1.8.2013 and thereafter from 01.9.2013 onwards, salary was not paid to the petitioner since the third respondent Panchayat did not pay the salary, the petitioner made a representation to the third respondent on 13.11.2013 and repeatedly sent representations for payment of salary. But no order was passed. Hence, he filed W.P.No.996/2016 before this Court. This Court, by its order, dated 19.1.2016, issued a direction to the third respondent to dispose of the petitioner's representation dated 25.9.2015 on merits and in accordance with law. Even thereafter salary was not paid to the petitioner. Hence, this writ petition.

3. The learned counsel for the petitioner would submit that this Court issued a direction to the third respondent to dispose of the representation of the petitioner sent for payment of salary. Thereafter the then President of the third respondent Panchayat by proceedings dated 1.7.2016 ordered for payment of salary to the petitioner from the month of September, 2013 to August 2016 by considering the representation dated 25.9.2015. Despite this order, no salary was paid to the petitioner. As the Local Bodies are superseded for want of conducting Local Body Election, the 2nd respondent is not in-charge of the 3rd respondent Village Panchayat/Executing Officer, he has a duty owed to him to disburse the salary to the petitioner as per the decision of the then Village Panchayat. Hence this Court may issue a direction to the 2nd respondent to disburse the salary to the petitioner within a reasonable time as fixed by this Court.

4. Per contra, the learned Additional Government Pleader appearing on behalf of the 2nd respondent would submit that even the petitioner's appointment itself is contrary to G.O.Ms.175 dated 15.12.2006. As per the said G.O., the maximum age limit to Schedule Caste/Scheduled Tribes for the appointment of Panchayat Secretary has been fixed as 33 years. However, the petitioner's age is 35 and therefore, the petitioner is ineligible for the said post. Hence, the Inspector of Panchayat initiated Proceedings



under Section 205(1)(a) of the Tamil Nadu Panchayats Act, 1994 and thereafter, the said proceedings were withdrawn on the explanations submitted by the then President and thereafter, the petitioner's salary was stopped from 1.9.2013. This Court issued a direction to the third respondent to consider the representation. As per the direction of this Court, the petitioner was called for explanation and immediately, the petitioner resigned the post on 24.10.2013 and his resignation was approved by the Village Council meeting conducted on 28.10.2013. Further the petitioner himself paid the salary amount to the tune of Rs.69,480/-, which was received by the petitioner between 1.8.2012 to 1.8.2013, to the Village General Fund on 24.10.2013 and suppressing all these proceedings, the petitioner approached this court with this writ petition, which is not sustainable in the eye of law. Accordingly, he prayed for dismissal of this writ petition.

5. Heard the submissions made by the learned counsel appearing on either side and perused the materials.

6. Considering the facts and circumstances of the case and also considering the fact that the petitioner has filed this writ petition suppressing the proceedings initiated against his appointment under Section 205(1)(a) of the Tamil Nadu Panchayats Act, 1994 and also the fact that as per the direction of this Court, the petitioner was called for explanation and immediately, the petitioner resigned the post on 24.10.2013 and his resignation was approved by the Village Council meeting conducted on 28.10.2013. Further the petitioner himself paid the salary amount to the tune of Rs.69,480/-, which was received by the petitioner between 1.8.2012 to 1.8.2013, to the Village General Fund on 24.10.2013. Hence, the prayer sought for in this writ petition cannot be entertained.

7. Accordingly, this writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (T&P)

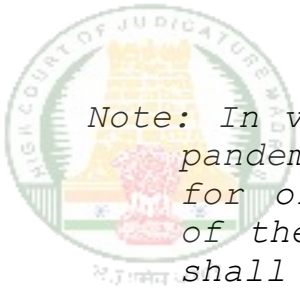
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Sub Assistant Registrar (CS)

PJL

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To

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Thoothukudi.

2.The Block Development Officer,
Village Panchayats,
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Thoothukudi District.

3.The Special Officer,
Thonugal Village Panchayat,
Kovilpatti Taluk,
Thoothukudi District.

+1 CC to MR.G.THALAIMUTHARASU, Advocate (SR-10394[F] dated 11/03/2021)

+1 CC to SPL GP (SR-10558[F] dated 11/03/2021)

**W.P. (MD) .No.4115 of 2017
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KM (17.05.2021) 4P 6C