



W.A(MD)No.1498 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.A(MD)No.1498 of 2011

Seeniraj

.. Appellant

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Block Development Officer,
(Village Panchayats),
Srivilliputhur Panchayat Union,
Virudhunagar District.

3.The President,
Kottaipatti Village Panchayat, (IInd Grade),
Srivilliputhur Panchayat Union,
Virudhunagar District.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.11977 of 2011, dated 19.10.2011.



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For Appellant : Mr.M.Jothi Basu

For Respondents : Mr.D.Sasikumar,

Additional Government Pleader

JUDGMENT

J. NISHA BANU, J.

AND

N. ANAND VENKATESH, J.

This Writ Appeal has been filed against the order passed by the learned Single Judge made in W.P.(MD) No.11977 of 2011, dated 19.10.2011.

2. The appellant /writ petitioner had challenged the proceedings of the second respondent, dated 30.08.2011, confirming the decision taken by the third respondent through proceedings, dated 20.12.2010, whereby, the appellant/ petitioner was dismissed from service on the ground that he was over aged on the date on which he was appointed to the post of Village Assistant.

3. Heard, Mr.M.Jothi Basu, learned counsel appearing for the appellant /petitioner and Mr.D.Sasikumar, learned Additional Government Pleader appearing for the respondents.



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4. The main ground that was urged by the learned counsel for the appellant is that a charge memo was issued by the third respondent by pointing out certain delinquencies committed by the appellant while working as a Village Assistant. However, the reason assigned at the time of dismissal was not in line with the charge memo and a different reason was given as if the appellant was appointed to the post of Village Assistant beyond the age limit fixed under the relevant rules. The learned counsel further submitted that the appellant was not given sufficient opportunity to putforth his case and hence sought for the interference of the order passed by the learned Single Judge and to remand the matter back to the file of the third respondent.

5. The learned Additional Government Pleader appearing on behalf of the respondents submitted that as per the Rules, the appellant / petitioner, who belongs to SC community must not have crossed the age of 33 years, when he was considered for appointment to the post of Village Assistant. However, as on the date of appointment, he was 34 years, 11 months and 2 days and that is the main reason for which the appellant / petitioner was dismissed from service. The learned Additional Government Pleader in order to substantiate his submissions, also



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produced the transfer certificate of the petitioner issued by the Madurai Kamaraj University, wherein, it is found the date of birth of the petitioner is 21.05.1966.

6. In the considered view of this Court, it is true that the termination of the petitioner / appellant was made on a different ground than the one found in the charge memo issued by the third respondent. However, the very appointment of the petitioner / appellant becomes questionable, since it was not in line with the relevant Rules which provided the maximum age limit as 33 years.

7. The learned Single Judge while considering this issue came to a clear conclusion that the petitioner was not able to produce any material to show that he was below 33 years, on the date of his appointment. Hence, the learned Single Judge was not inclined to interfere with the impugned orders passed by the second and third respondents.

8. Even if we are to consider remanding the matter back to the file of third respondent, we must be satisfied prima facie that the



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appellant / petitioner had not crossed 33 years, as on the date of his appointment. Only then, there will be some meaning in remanding the matter back to the file of the third respondent. However, on the material placed before this Court, we find that the date of birth of the petitioner is 21.05.1966 and as on the date of his appointment on 30.05.2001, the appellant / petitioner was aged about 34 years, 11 months and 2 days. This is clearly beyond the maximum age limit that was fixed to the post of Village Assistant for a person belonging to SC community, which is 33 years.

9. In view of the above, we are not inclined to interfere with the order passed by the learned Single Judge made in W.P.(MD) No.11977 of 2011, dated 19.10.2011 and accordingly, the Writ Appeal stands dismissed. No costs.

[J.N.B, J.] & [N.A.V., J.]
28.09.2022

Index: Yes/No
Internet: Yes/No
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To

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JUDGMENT MADE IN
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