



W.P.(MD)No.1622 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1622 of 2020

and

W.M.P.(MD)Nos.1337 and 1339 of 2020

T.Mariappa

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.
2. The Director,
Directorate of Rural Development and Panchayat Raj,
Panagal Maligai 4th & 5th Floor,
Abdul Razaak Street,
Saidapet,
Chennai – 600 015.
3. The District Collector,
Tenkasi District,
Tenkasi.



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4. The Block Development Officer,
Alangulam Union,
Alangulam Taluk,
Tenkasi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in his proceedings in ந.க. எண்.அ1/330/2015 நாள் 08.05.2019 and quash the same as devoid of merits and consequently direct the respondents to appoint the petitioner as the night watchman or the driver of any one of the Panchayat Union comes under the jurisdiction of the 3rd respondent.

For Petitioner : Mr. Ananth C.Rajesh

For Respondents : Mr. S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned proceedings of the fourth respondent in ந.க. எண்.அ1/330/2015 dated 08.05.2019 and consequently direct the respondents to appoint the petitioner



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as the Night Watchman or the Driver of any one of the Panchayat Union comes under the jurisdiction of the third respondent.

2. The learned counsel for the petitioner submitted that the petitioner completed 8th standard in the year 1996. Due to poverty in family he is unable to continue his studies. He got temporary employment as Driver in the Panchayat Union Office, Tenkasi on 01.10.2008 and he was working there till 02.03.2011. Subsequently, he was appointed as a Driver in fourth respondent office from 01.07.2011 to 03.06.2014. From 04.06.2014 onwards, he was worked as a Night Watchman in the fourth respondent office for a period of 11 months. The said Night Watchman post was vacant due to the promotion given to one Balakrishnan, as Junior Assistant in the fourth respondent office with effect from 27.12.2012. In the vacant place, the petitioner was appointed as Night Watchman with effect from 04.06.2014.

3. In the mean time, the fourth respondent invited applications to fill up the said post in the year 2015. He submitted application on



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16.02.2015 and interview was held on 31.03.2015, except the petitioner others about 121 candidates list sent to the District Collector, Tirunelveli, not attended the interview on 31.03.2015. Hence, he was selected for the said post of Night Watchman by the Appointment Committee through Resolution No.2, dated 31.03.2015. As per the above, the fourth respondent being the Commissioner of the Alangulam Panchayat Union has to execute the decision of the Appointment Committee as per Section 85(4)(c) of the Tamil Nadu Panchayats Act, 1994. However, the said post was not given to the petitioner and hence, the petitioner filed a writ petition before this Court in W.P.(MD) No.2528 of 2015 and this Court by its order, dated 24.03.2015 dispose the writ petition granting liberty to the petitioner to participate in the next selection process. Again, he was selected and Resolution No.5 was passed by the Appointment Committee on 11.08.2015 and the said resolution was upheld by the fourth respondent Panchayat Union council through Resolution No.743, dated 04.09.2015. However, the third respondent without any request, set aside the resolutions passed by the Appointment Committee, dated 11.08.2015 and till date no appointment was given to the petitioner and no progress after the resolution, dated



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11.08.2015. Again the petitioner filed another writ petition before this Court in W.P.(MD) No.20480 of 2015 for Mandamus to appoint the petitioner based on the above said resolution, dated 11.08.2015. The said writ petition was disposed of by issuing direction to the respondent to provide opportunity to the petitioner and pass appropriate orders. However, the fourth respondent rejected the petitioner's application on 08.05.2019. Challenging the same, the present writ petition is filed.

4. The learned counsel for the petitioner would submit that the petitioner continuously employed as daily wages and till date, his service is not regularised. At the relevant point of time, there was one post for Night Watchman fell vacant and hence, the petitioner entitled to be appointed to the said post. Accordingly, he prayed for appropriate orders.

5. Per contra, learned Special Government Pleader appearing for the respondents submitted that as per G.O.Ms.No.142, dated 14.10.2009 (for appointment through Employment Exchange) the reservation turn for the post of Night Watchman in Alangulam Panchayat Union is fixed as



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General Turn (priority). The fourth respondent obtained list of eligible candidates registered with Employment Exchange for the reservation turn. Thereafter, in accordance with the directions of this Court, advertisements have been issued in two vernacular dailies with wide circulation, calling for eligible persons to apply for the post of Night Watchman. The petitioner along with four other candidates participated in the interview conducted by the Appointment Committee on 11.08.2015. During the entire selection process, the petitioner was provided with enough opportunity to compete with other eligible candidates. The petitioner cannot, for the sole reason of having been employed on daily wage basis and participated in the recruitment process conducted by the fourth respondent, claim to be appointed as Night Watchman in Alangulam Panchayat Union illegally through back-door by way of multiple litigations on the same subject over a period of four years. Hence, prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and learned Special Government Pleader appearing for the respondents.



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7. Though the petitioner claimed that he is working as a daily wages in the fourth respondent Panchayat Union and he made application to appoint him in the post of Night Watchman in the vacant post. However, the said application was rejected on the ground that as per G.O.Ms.No.142, dated 14.10.2009, the said post is reserved for General Turn priority. The said Night Watchman post is fixed for General Turn Priority and hence, the fourth respondent rejected the petitioner's application on the ground that the appointment cannot be filled up by way of considering application and it has to be called for list from the Employment Exchange and from public notice then only the post will be filled up.

8. In view of the above, the prayer sought for in this writ petition cannot be granted.

9. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to participate in the selection process for the said post, if he satisfied the eligible criteria. No costs. Consequently, connected



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miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

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M.DHANDAPANI,J.

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