



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.02.2022
CORAM**

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.2916 of 2022

D.Diravidamani

... Petitioner

-vs-

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Block Development Officer,
Vembakottai Panchayat Union,
Vembakottai,
Virudhunagar District.
- 3.The Block Development Officer,
Rajapalayam Panchayat Union,
Virudhunagar District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent to appoint the petitioner in the post of Panchayat Secretary in any available vacancy of the Rajapalayam Panchayat Union instead of permitting him to continue as Bill Collector in the 2nd respondent Panchayat Union and thereby consider his case for inclusion in the panel for appointment to the post of Junior Assistant with effect from 2000 i.e., on par with his batch mates based on his representation dated 02.05.2019 and remainder representation dated 17.11.2021 submitted to the 1st respondent in person within the time limit that may be stipulated by this Court.

For Petitioner :	Mr.G.Thalaimutharasu
For RR1 & 3 :	Mr.N.Satheesh Kumar, Additional Government Pleader
For R2 :	Mr.J.Ashok, Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the 1st respondent to appoint the petitioner in the post of Panchayat Secretary in any available vacancy of the Rajapalayam



Panchayat Union instead of permitting him to continue as Bill Collector in the 2nd respondent Vembakottai Panchayat.

2. Admittedly, the petitioner is working as Bill Collector in Vembakottai Panchayat Union, Virudhunagar District. The petitioner was working in Rajapalayam Panchayat Union and he was terminated from service and based on the interim order, he was again posted as Bill Collector in Vembakottai Panchayat Union.

3. As far as the Panchayat Secretary post is concerned, it must be filled up only by the Director of Rural Development and Director of Panchayat and not by the District Collector. Therefore, the District Collector cannot appoint or post the petitioner as Panchayat Secretary. This apart, the petitioner is now allowed to continue as Bill Collector in the 2nd respondent Panchayat Union and he cannot claim the post of Panchayat Secretary as a matter of right. Posts are to be filled up strictly in accordance with the services rule in force. The post of Panchayat Secretary is governed by the rules and therefore, the posts are to be filled up only by following the procedures contemplated under the Rules. When the petitioner is working as Bill Collector and receiving salary attached to the post, he cannot claim the post of Panchayat Secretary as a matter of right, as the post is to be filled up as per the rules in force.

4. Mere vacancy in the post of Panchayat Secretary would not confer any right to the petitioner to claim the said post. If at all the petitioner is eligible and a decision is taken administratively to fill up the post of Panchayat Secretary, then all the eligible persons are to be considered on merits and in accordance with the rules. These being the procedures to be followed, this writ petition, filed to appoint the petitioner as Panchayat Secretary, cannot be entertained. Thus, the petitioner has not established even a semblance of legal right for the purpose of granting the relief as such sought for. However, the case of the petitioner is to be considered as per the rules and whenever an administrative decision is taken to fill up vacant post.

5. It is brought to the notice of the Court that the scale of pay attached to the post of Bill Collector and Panchayat Secretary are one and the same. Therefore, the petitioner cannot claim the post of Panchayat Secretary as a matter of right.

6. With the above clarification, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

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



To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Block Development Officer,
Vembakottai Panchayat Union,
Vembakottai, Virudhunagar District.

3.The Block Development Officer,
Rajapalayam Panchayat Union,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-6493[F] dated 16/02/2022)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-6623[F] dated
16/02/2022)

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DP(26.02.2022) 3P 6C