



W.P(MD)Nos.4043 of 2021 etc.,batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.4043, 4047, 4050, 4051, 4053, 4056 & 741 of 2021

In W.P.(MD)No.4043 of 2021

R.Sakthivel

... Petitioner

Vs.

1.The Commissioner of Revenue Administration and Disaster Management,
Ezhilagam,
Chennai.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to fill up the 12 post of Village Administrative Officer fell vacant for the year 2017-18 by way of recruitment by transfer promotion in accordance with G.O. Nilai No. 570 dated 26.12.14 and pass order on merits and in accordance with law within the period that may be stipulated by this Court.

For Petitioner : Mr.M.E.Ilango

For R1 & R2 : Mr.A.K.Manikkam
Special Government Pleader



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COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioners herein are working as Village Assistants in Ramanathapuram District. Their next promotional post is Village Administrative Officer. Recruitment to the post of Village Administrative Officers is governed by statutory scheme. It is not in doubt that it can be filled up either by way of direct recruitment or by way of promotion or by way of recruitment by transfer. Be that as it may, vide G.O.Nilai No.570, Revenue Department dated 26.12.2014, it was directed that 20% of the vacancies in the post of Village Administrative Officer will be filled up by promotion from the post of Village Assistants.

3. The grievance of the writ petitioners is that even though the revenue department had notified that 12 vacancies are to be filled up by way of promotion in the year 2017-2018, it was not given effect to. When some of the petitioners herein made representation in this regard, it was rejected by order dated 16.12.2020. Questioning the stand taken by the District Administration, these writ petitions have been filed.



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4. The respondents have filed counter affidavits. The learned Special Government Pleader took me through their contents. The stand of the respondents is two fold:-

(a) In the year 2019, when steps were taken, parliamentary election intervened and therefore, they could not fill up the vacancies in the post of Village Administrative Officers by way of promotion.

(b) That apart, on 15.03.2017, since no Village Assistant was eligible to be considered for promotion, the notified vacancies have got lapsed.

The learned Special Government Pleader submitted that these writ petitions deserve to be dismissed.

5. I carefully considered the rival contentions and went through the materials on record.

6. The Government had introduced a policy for filling up 25% of the vacancies in the post of Village Administrative Officers by way of promotion from the feeder grade of Village Assistants. This policy which found expression in the form of G.O.Nilai No.570, Revenue Department dated 26.12.2014 ought not to be defeated. The question of lapse will not arise at all. The department had prepared a list of available vacancies as late as on



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06.08.2018. In the said list, it was categorically mentioned that 12 vacancies in Ramanathapuram District are to be filled up or to have been ear-marked for being filled up by promoting the Village Assistants. On 06.08.2018, eligible candidates were very much available. Therefore, the respondents are not correct in taking 15.03.2017 as reckoning date.

7. I can understand if the Government had resorted to direct recruitment in the year 2017-2018 on the ground that eligible candidates were not available for being promoted. The District Administration or Government had not done so. Having not resorted to direct recruitment during the relevant time, when the eligible candidates are available, they cannot fall back on the theory of lapse. The stand of the District Administration runs counter to G.O.Nilai No.570, Revenue Department dated 26.12.2014. It is well settled that G.O can be overridden only by statutory rule or provision. The decision of the administration will have to be necessarily in consonance with the G.O.

8. In this view of the matter, the stand of the administration reflected in communication bearing Na.Ka.No.A4/1280/2020 dated 16.12.2020 is set aside. The respondents are directed to fill up 25% of the vacancies in the post of Village Administrative Officers only by promoting eligible Village Assistants.



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9. These writ petitions are allowed. No costs.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.



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