



W.P(MD)No.6158 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6158 of 2022

and

W.M.P.(MD)No.4775 of 2022

N.K.Pokkaran

... Petitioner

Vs.

1.The District Collector / Inspector of Panchayat,
Ramanathapuram District,
Ramanathapuram.

2.The Block Development Officer (Village Panchayat)
Nainar Kovil Union Office,
Ramanathapuram District.

3.The President,
Kulathur Village Panchayat,
Nainar Kovil Union,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned rejection order in Na.Ka.Thi3/2759/2019 dated 20.11.2021 issued by the 2nd respondent and quash the same as illegal and arbitrary exercise of power and consequently direct the respondents to issue appointment order to the petitioner for the post of Village Panchayat Secretary (Meant for ex-service man), Kulathur Village Panchayat, Ramanathapuram District forthwith.



W.P(MD)No.6158 of 2022

For Petitioner : Mr.R.Gowrishankar
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner is an ex-service man. The Block Development Officer (Village Panchayat), Nainar Kovil Union Office, Ramanathapuram District issued notification dated 08.11.2019 calling for applications from eligible candidates for filling up the post of Panchayat Secretary for Kulathur Village Panchayat, Ramanathapuram District. The petitioner was one of the applicants. The petitioner's application was rejected on the ground that he is not residing within the Kulathur Village. The rejection order dated 20.11.2021 is put to challenge in this writ petition.

3. The learned Special Government Pleader appearing for the respondents submits that the impugned order came to be passed in view of the interim stay granted in respect of G.O.Ms.No.72, Rural Development & Panchayat Raj(E5) Department, dated 09.07.2013, I am not able to appreciate this objection. This is for more than one reason. The impugned rejection order does not say so.



W.P(MD)No.6158 of 2022

Secondly, the interim order in respect of the aforesaid G.O was issued way back in the year 2013. The impugned recruitment notification was issued on 08.11.2019. Hence, this contention does not appeal to me. The impugned order refers to G.O.Ms.No.72, Rural Development & Panchayat Raj(E5) Department, dated 09.07.2013 for disqualifying the petitioner. My attention is drawn to Rule (5)(2) of the aforesaid G.O. It reads as under:-

5(2) Other Qualifications:- (i) No person shall be eligible for appointment to the post, if he/she has not passed S.S.L.C issued under the authority of the Government of Tamil Nadu or any other equivalent examination prescribed by the Government to be equivalent thereto;

(ii) No person shall be eligible for appointment to the post unless he/she is a resident of the Village Panchayat concerned.

(iii) If no qualified and suitable candidate residing in the Village Panchayat concerned is available for selection for appointment to the post, eligible candidate from the adjoining Village Panchayats within the block shall be appointed.

4. If a qualified and suitable candidate is not available in the village in question, then, it is open to the recruiting authority to select a candidate from the adjoining village panchayat but which must be within the same block. The petitioner fulfils the said condition. Even as per the earlier G.O., the very same position obtained. Therefore, the second respondent erred in rejecting the case of the petitioner on the sole ground that he was residing at a distance of 25 kilometers away from Kulathur Village. The impugned rejection order is set



W.P(MD)No.6158 of 2022

aside. However, I cannot straight away direct the respondents to issue appointment order to the petitioner for the post of Village Panchayat Secretary.

There is no dispute that the post has been reserved for ex-service man. If no suitable or eligible candidate is available in the village in question, the petitioner will have to be considered. He cannot be treated as disqualified. The respondents are directed to take a call in the matter within a period of eight weeks from the date of receipt of a copy of this order.

5. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index : Yes / No
Internet : Yes/ No
rmi

To

- 1.The District Collector / Inspector of Panchayat,
Ramanathapuram District,
Ramanathapuram.
- 2.The Block Development Officer (Village Panchayat)
Nainar Kovil Union Office,
Ramanathapuram District.
- 3.The President,



W.P(MD)No.6158 of 2022

Kulathur Village Panchayat,
Nainar Kovil Union,
Ramanthapuram District.

WEB COPY

G.R.SWAMINATHAN, J.



WEB COPY



W.P(MD)No.6158 of 2022

rmi

W.P(MD)No.6158 of 2022

11.11.2022