



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)Nos.19266 and 20575 of 2021

and

W.M.P. (MD)Nos.17212, 17214, 17215, 16018 and 16020 of 2021

W.P. (MD)No.19266 of 2021

G.Kathirvel

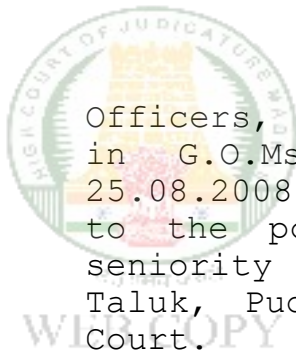
... Petitioner

versus

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat,
Chennai - 9.
2. The Additional Chief Secretary cum
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk,
Chennai - 5.
3. The District Collector,
Pudukkottai District.
4. The District Revenue Officer,
Pudukkottai District.
5. The Revenue Divisional Officer,
Aranthangi,
Pudukkottai District.
6. Mrs.V.Bhuvaneswari,
Village Administrative Officer,
Kummakadu,
Aranthangi,
Pudukkottai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.A5/1863/2021 and the impugned order in Na.Ka.A5 dated 31.08.2021 on the file of the respondent No.5 and the consequential impugned order in O.Mu.A1/21524/2021 on the file of the respondent No.4 dated 30.09.2021 and quash the same as illegal and consequently for a direction directing the respondent No.4 to reconduct the general transfer counselling for the post of Village Administrative



Officers, Aranthangi Taluk in accordance with the Government Order in G.O.Ms.No.515 Revenue (Service - 7(1)) Department dated 25.08.2008 issued by the respondent No.1 and transfer the petitioner to the post of Village Administrative Officer considering the seniority of the petitioner at Kummakadu A Village, Aranthangi Taluk, Pudukkottai District, within the time stipulated by this Court.

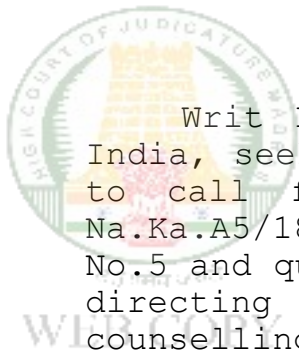
For Petitioner : Mr.T.Ashwin Rajasimman
for M/s.T.Lajapathi Roy
For Respondents : Mr.P.T.Thiraviam
Government Advocate

W.P. (MD)No.20575 of 2021

1. S.Senthil Kumar
2. V.Siva
3. K.Thandayuthapani ... Petitioners

versus

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat,
Chennai - 9.
2. The Additional Chief Secretary cum
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk,
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Aranthangi,
Pudukkottai District.
6. Mrs.V.Bhuvaneswari,
Village Administrative Officer,
Kummakadu,
Aranthangi,
Pudukkottai District. ... Respondents



Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.A5/1863/2021 dated 31.08.2021 on the file of the respondent No.5 and quash the same as illegal and consequently, for a direction directing the respondent No.4 to reconduct the general transfer counselling for the post of Village Administrative Officers, Aranthangi Taluk in accordance with the Government Order in G.O.Ms.No.515 Revenue (Service-7(1)) Department dated 25.08.2008 issued by the respondent No.1 within the time stipulated by this Court.

For Petitioners : Mr.T.Ashwin Rajasimman
for M/s.T.Lajapathi Roy

For Respondents : Mr.P.T.Thiraviam
Government Advocate

COMMON ORDER

W.P.(MD)No.19266 of 2021 is filed against the order of transfer dated 31.08.2021 passed by the Revenue Divisional Officer, Aranthangi and the consequential order dated 30.09.2021 passed by the District Revenue Officer, Pudukkottai District and also for a direction, directing the respondent No.4 to re-conduct the general transfer counselling for the Village Administrative Officers, Aranthangi Taluk, in accordance with the Government Order in G.O.Ms.No.515, Revenue (Service-7(1)) Department dated 25.08.2008.

2. W.P.(MD)No.20575 of 2021 is filed against the order of transfer dated 31.08.2021 passed by the Revenue Divisional Officer, Aranthangi and also for a direction, directing the respondent No.4 to re-conduct the general transfer counselling for the Village Administrative Officers, Aranthangi Taluk, in accordance with the Government Order in G.O.Ms.No.515, Revenue (Service-7(1)) Department dated 25.08.2008.

3. The petitioners are working as Village Administrative Officers in Pudukkottai District. The Government issued G.O.Ms.No.515 dated 25.08.2008 prescribing certain guidelines for transfer of Village Administrative Officers. As per the said guidelines, the fifth respondent/Revenue Divisional Officer, Aranthangi, Pudukkottai District, is duty bound to draw a Taluk-wise seniority list among Village Administrative Officers in "A" village and "B" village and based on the seniority as on the cut off date, i.e. on 1st July of every year, the general transfer counselling has to be conducted. However, the fifth respondent, namely, the Revenue Divisional officer, Aranthangi, Pudukkottai District, passed the impugned order of transfer by fixing the cut off date as 26.08.2021, at the request of the office bearers of the Village Administrative



Officers' Association. Challenging the same, the present writ petitions are filed.

4. Mr.T.Ashwin Rajasimman, learned counsel for the petitioners submits that the Village Administrative Officers' Association is not supposed to prescribe the cut off date as 26.08.2021, when the cut off date has been specifically prescribed as 1st July of every year in G.O.Ms.No.515, dated 25.08.2008. He further submits that the suggestion made by the Association was in consultation with the members of the Association. Therefore, the petitioners are affected in view of the said decision. According to the learned counsel for the petitioners, if the cut off date is prescribed as per G.O.Ms.No.515, the petitioners may have better placement. Against the decision taken by the Revenue Divisional Officer, Aranthangi, Pudukkottai District, by fixing the cut off date as 28.08.2021, instead of 1st July of 2021, the petitioner in W.P.(MD)No.19266 of 2021 preferred an appeal to the fourth respondent, namely, the District Revenue Officer, Pudukkottai District. However, the fourth respondent, vide order dated 30.09.2021, rejected the appeal that on certain circumstances, the cut off date can be modified. The reason given by the fourth respondent is that in view of assembly election and the pandemic situation, the cut off date has been prescribed as 26.08.2021 for this year and that too on the suggestion made by the Association. Therefore, the impugned orders are in violation of G.O.Ms.No.515, dated 25.08.2008 and it need to be interfered with.

5. Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondents submits that G.O.Ms.No.515 stipulates that the transfer of Village Administrative Officers could be effected at any point of time on administrative grounds, since the nature of work done by the Village Administrative Officers being ground work and the same is different from the works of other Government Employees. In this case, as per instructions issued in the above said Government Order, the list of eligible persons to be considered for general transfer as on 1st July 2021 was obtained from the Tahsildars concerned and as per taluk wise seniority, the persons had attended the counselling and they were given opportunity to select their village as per seniority.

6. Sofar as the petitioner in W.P.(MD)No.19266 of 2021 is concerned, the learned Government Advocate submits that the petitioner being the Secretary to Village Administrative Officers' Association of Aranthangi, presented a petition dated 27.08.2021 to the 5th respondent requesting not to conduct the counselling on 28.08.2021, which falls on Saturday. He further submits that the taluk level VAOs seniority is being maintained and in the seniority register, the petitioner's name stands at Sl.No.16 in the Seniority register. Though the petitioner was fully aware of the on-going counselling on 28.08.2021, he neither attended the counselling nor given written representation for transfer to "A" village of Aranthangi Taluk. In the absence of the petitioner,



the next seniority person was provided the said village in the counselling.

7. Sofar as the petitioners in W.P.(MD)No.20575 of 2021 are concerned, the learned Government Advocate submits that since the petitioners have not completed three years of service in the present village, they are not eligible to participate in the counselling and they also opted for "A" Village. Their options will be considered as per rotation basis.

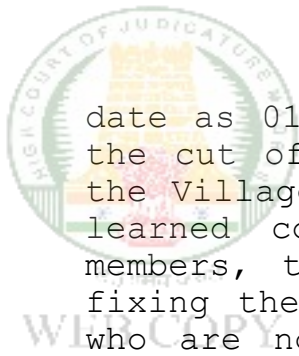
8. Mr.T.Ashwin Rajasimman, learned counsel for the petitioners disputed the contentions made by the learned Government Advocate and submits that the counselling was conducted by fixing the cut off date as 26.08.2021 and not as 01.07.2021. He has also demonstrated from the impugned proceedings that one V.Bhuvaneswari, who was appointed on 01.11.2018 was allowed to participate in the counselling even before she completed three years of service in the present place. Similarly, one M.Raja, K.Arun Nehru and S.Shanmugasundaram, who have been appointed in August 2018 and September 2019, were also accommodated in the General Counselling by fixing the cut off date as 26.08.2021 and the cut off date itself has been extended as 26.08.2021 in order to accommodate these persons in the general counselling. He further submits that if the cut off date is prescribed as 01.07.2021, the petitioners would also have been placed in the general counselling and in order to accommodate some people, the cut off date has been fixed as 26.08.2021 and it is against the Government Order.

9. This Court paid its anxious consideration to the rival submissions made.

10. The Government, vide G.O.Ms.No.515 dated 25.08.2008, prescribed certain guidelines for general counselling and fixed the cut off date as 1st July of every year. But, in this case, the cut off date is taken as 26.08.2021. According to the respondents, on certain circumstances, the authority can change the cut off date. Further, in the impugned order, the reason assigned by fourth respondent for fixing the cut off date as 26.08.2021 is that in view of assembly election and pandemic situation, the cut off date is fixed as 26.08.2021, instead of 01.07.2021.

11. The assembly election was over in the month of April 2021 itself and the results were declared on 2nd May of 2021. The pandemic situation is also prevailing from March 2020. Therefore, these cannot be grounds for changing the cut off date as 26.08.2021 instead of 1st July of every year, which has been specifically prescribed by the Government in G.O.Ms.No.515, dated 25.08.2008.

12. Yet another reason assigned by the fourth respondent is that the post of Revenue Divisional Post was vacant from 01.07.2021



date as 01.07.2021. The fourth respondent has also mentioned that the cut off date has been prescribed as per the recommendation of the Village Administrative Officers' Association. According to the learned counsel for the petitioners, in order to favour some members, the Association made this recommendation, suggesting for fixing the cut off date as 28.08.2021. Accordingly, the persons, who are not eligible for counselling, have also been allowed to participate in the counselling. Therefore, this Court is of the view that the impugned orders are not in consonance with the guidelines issued by the Government in G.O.Ms.No.515, dated 25.08.2008.

13. Accordingly, both the writ petitions are allowed and the impugned orders dated 31.08.2021 and 30.09.2021 are set aside. The 4th respondent is directed to conduct general transfer counselling afresh for the post of Village Administrative Officers, Aranthangi Taluk, by fixing the cut off date as 01.07.2021 as prescribed in G.O.Ms.No.515, dated 25.08.2008 and pass further orders, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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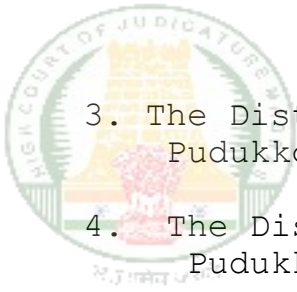
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary,
Revenue Department,
Secretariat,
Chennai - 9.
2. The Additional Chief Secretary cum
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3. The District Collector,
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6. Mrs.V.Bhuvaneswari,
Village Administrative Officer,
Kummakadu,
Aranthangi,
Pudukkottai District.

+1 CC to M/s.SPL.GP (SR-585,587[F] dated 06/01/2022)

+1 CC to M/S.T.LAJAPATHI ROY, Advocate , SR-513 dated 06/01/2022

W.P(MD)Nos.19266 and 20575 of 2021
05.01.2022

RK(03/03/2022) 7P 9C