



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WEB COPY

W.P. (MD) .No.13756 of 2018

and

W.M.P (MD) Nos.12493 of 2018 and 779 of 2020

P.Murugeswari

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The District Employment Officer,
Virudhunagar District Employment Office,
Virudhunagar District, Virudhunagar.

3.The Assistant Director,
Town Panchayats, Madurai.

4.The Executive Officer,
Selection Grade Town Panchayat,
Seithur, Rajapalayam Taluk,
Virudhunagar 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 in impugned communication in Na.Ka.No.111/2012, dated, 10.04.2017 on the file of the fourth respondent and quash the same as illegal and consequently direct the respondents to appoint the petitioner as Sanitary Worker under Scheduled Caste (Arunthathiyar) - Women - non-priority quota in the fourth respondent's Panchayat.

For Petitioner : Mr.S.Kumar
For Respondents : Mr.P.Thilak Kumar
Government Pleader

ORDER

This present writ petition has been filed to quash the impugned order, dated, 10.04.2017 with the consequential prayer to direct the respondents to appoint the petitioner as Sanitary Worker under Scheduled Caste (Arunthathiyar) - Women - non-priority quota in the fourth respondent's Panchayat.

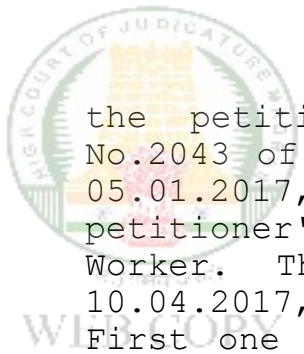
2. The brief facts of the case are that the petitioner belonging to Schedule Caste (Hindu Chakkilyan) community and she is



entitled to 3% special reservation for the Arunthathiyars. The petitioner passed fourth standard and registered in the District Employment Exchange with the registration number VRD 2008 F 00014277. In the year 2013, the fourth respondent Executive Officer initiated proceedings to fill up the vacancies of the post of Sanitary Workers. The total number of vacancies is two. Among two, one post is reserved for Scheduled Caste (Arunthathiyar) - Women - non-priority person and another post is allotted for other caste General priority. In a communication, dated, 21.05.2013, the District Employment Exchange forwarded the petitioner's name. On 07.06.2013, the petitioner and another person Gandiammal attended the interview conducted by the Executive Officer. In the interview, the said Gandiammal was selected. One Dhanuskodi was selected in another vacancy under the General category.

3. The contention of the petitioner is that the proceedings of the Executive Officer shows that the appointment order issued to the said Gandiammal and Dhanuskodi. But they did not come forward to join the duty. Therefore, the fourth respondent cancelled their appointment on 02.08.2013. Under the selection procedures, if selected candidate did not come forward to join the duty, the next person who is eligible for the reserved category ought to be appointed. Since the said Gandiammal has not joined the duty, the petitioner is entitled to the said post in the year 2014. Again the fourth respondent took steps to fill up the vacancies without granting the appointment order to the petitioner. On 26.06.2014, the fourth respondent sent a communication to the District Employment Exchange to sponsor names for the post of Sanitary Worker. In the said communication, the fourth respondent has not stated anything about the quota. On 18.07.2014, the Selection Grade Town Panchayat passed resolution No.16, granting permission to the Panchayat to fill up the vacancies. In the Council Resolution, it was stated that the previous selection of the two posts are Scheduled Caste Arunthathiyar Women and another is General category. The District Employment Exchange sponsored name of eight persons, including the petitioner for consideration. Among the said eight persons, five persons came forward to attend the interview. The petitioner is the only candidate available under Scheduled Caste - Arunthathiyar - Women - non-priority category. On 24.12.2014, the petitioner attended the interview. But the fourth respondent did not issue the appointment order. On enquiry, the petitioner came to understand that the fourth respondent intends to change reservation of back log vacancies and taking steps to appoint some other person belongs to other caste in the vacancy allotted for Scheduled Caste (Arunthathiyar) Women. If any vacancy arose in the particular category, the respondents are bound to appoint the candidates in the particular category. If no candidate is available from the particular category, then the same can be considered as a backlog vacancy for the next year.

4. On 09.02.2015, the petitioner submitted a representation to the District Collector. since the 4th respondent has not considered



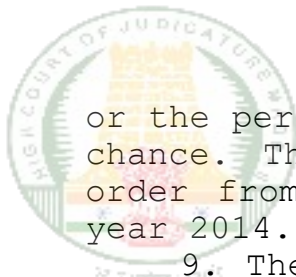
the petitioner's candidature, the petitioner preferred W.P(MD) No.2043 of 2015 before this Court for Mandamus, vide order, dated, 05.01.2017, directed the fourth respondent to consider the petitioner's candidature for appointment to the post of Sanitary Worker. Therefore, the fourth respondent, vide order, dated, 10.04.2017, rejected the petitioner's candidature on two grounds. First one is that in the year 2013, one Gandhiammal was selected under Scheduled Caste (Arunthathiyar) category, but she did not join the duty. So her appointment was cancelled. Thereafter, no selection notification was issued for the post in question. The second ground is that tenure of Panchayat Board members came to end in October 2016 and the request of the petitioner could not be considered, since it can be considered only by Selection Committee. The special officers appointed by virtue of G.O.Ms.No.145 were given only administrative power and there is no clarification in the said Government Order about the power of the Special Officer. After Selection Committee assumed office, proper publication will be issued. Thereafter, applications will be considered and the petitioner's application also will be considered on priority basis.

5. The contention of the petitioner is that the said communication is against the counter statement averred in the earlier litigation. Hence, the petitioner preferred Cont.P.No.133 of 2018 before this Court. The fourth respondent informed about his communication, dated, 10.04.2017. Recording the same, Contempt Petition was closed on 15.02.2018 granting liberty to the petitioner to contest the said communication. Hence, the present writ petition has been filed.

6. The learned counsel for the respondents have reiterated the contents stated in the impugned order and submitted that this Court granted interim stay, dated, 27.06.2018. The learned counsel for the fourth respondent has filed a counter. The contention of the fourth respondents is that the Special Officer cannot appoint anybody as per the Government Order. The Special Officer is empowered to function as day-to-day requirements of the Panchayat. Over and above, the Special Officer is not empowered to confer any appointment or initiate any proceedings for recruitment. The selection committee has the power and during that period, selection committee was not there, hence the petitioner's candidature was not considered. It is submitted that the tenure of the Special Officer is over and now the local body is constituted and selection committee is also constituted.

7. Heard Mr.S.Kumar, learned Counsel for the petitioner and Mr.P.Thilak Kumar, Government Pleader for the respondents and perused the records.

8. It is seen that as per the recruitment rules, when a candidate was given an appointment, if such candidate has not joined
<https://hccs.courts.gov.in/e-services> appointment order, then the person in the reserved list



or the person who are selected for consideration ought to be given a chance. Therefore, the petitioner is entitled to get appointment order from the selection list in the year 2013 as well as in the year 2014.

9. Therefore, this Court is directing the fourth respondent to issue an appointment order to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 District Collector,
Virudhunagar District, Virudhunagar.
- 2.The District Employment Officer,
Virudhunagar District Employment Office,
Virudhunagar District, Virudhunagar.
- 3.The Assistant Director,
Town Panchayats, Madurai.
- 4.The Executive Officer,
Selection Grade Town Panchayat,
Seithur, Rajapalayam Taluk, Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-17205[F] dated 07/04/2022)

+2 CC to M/s.S. KUMAR, Advocate (SR-17554[F] dated 08/04/2022)

W.P. (MD) .No.13756 of 2018

Date:06.04.2022