



W.P.(MD)No.2634 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 2634 of 2017

and

W.M.P(MD)No.2182 of 2017

Anilkumar

....

Petitioner

Vs.

1. The District Collector,
Kanyakumari,
Kanyakumari District.

2. The Thasildhar,
Vilavancode,
Kanyakumari District.

3. M.Vinu

....

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Declaration***, declaring the appointment of 3rd respondent as null and void as the same was made without following the procedure and consequently direct the respondents to appoint the petitioner to the post of village Assistant in Vilavancode Taluk .



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For Petitioner : Mr.S.C.Herold Singh
For R1 & R-2 : M/s.Farjana Ghousia,
Special Government Pleader
For R-3 : Mr.C.Prithiviraj

ORDER

This Writ Petition has been filed seeking direction to declare the appointment of 3rd respondent as null and void as the same was made without following the procedure and also sought for a consequential direction to the respondents to appoint the petitioner to the post of Village Assistant in Vilavancode Taluk.

2. The contention of the petitioner is that, he hails from poor agricultural family and failed in 10th standard and he belongs to Backward class community. The 2nd respondent has issued a notification, dated 09.09.2016, stating that the post of Village Administrative Officer would be filled up as per Rules. The notification further states, among two vacancies one is to be filled by Back Ward Class Muslim, non priority women (Destitute Widow) and the other post is general post (Non priority). The candidates must belongs to Vilavancode



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Taluk and the candidate should know to read and write and ought to have passed 5th standard. The petitioner has submitted an application and based on the application, the 2nd respondent, vide letter, dated 14.10.2016, called for certificate verification. The respondents have conducted written examination as well as interview. Since the petitioner belongs to Backward class the petitioner is waiting for appointment. In the meantime, the respondents have appointed the 3rd respondent without following the Roster. As per G.O.Ms.No.65 dated 27.05.2009, 200 point roster was introduced and the turn will go to Backward class, whereas, the 3rd respondent who belongs to Forward class community was appointed by the respondents. Aggrieved over the same, the present Writ Petition is filed.

3. When the writ petition was taken up for hearing on 09.11.2022, the respondents were directed to clarify the vacancy posts as well as the Roster that has been followed for filling up the vacancy, since the respondents have stated that the vacancy is carry forward vacancy. Therefore, the respondents have come out with the additional counter affidavit, wherein, it has been stated as under:



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“10. I respectfully submit that since the direct recruitment for the post of Village Assistant is made by the 2nd respondent – Tahsildar, Vilavancode after several years, it has been inadvertently mentioned as 'carried over/lapsed' as against the unfilled 6 posts, in the register maintained in Taluk Office, Vilavancode. This mentioning is neither willful nor wanton, and was immediately rectified by filling up the vacant posts subsequently. ”

4. The respondents have categorically admitted that inadvertently it has been mentioned as '**carried over/lapsed**', as against the unfilled six posts. When there is a mistake, then the petitioner ought to have been accommodated by the respondents.

5. Considering the facts and circumstances of the case, this Court issues direction to the respondents to accommodate the petitioner in any vacancy available in and around in the Kanyakumari District.



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6. With the above directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is also closed.

Index : Yes / No

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Internet : Yes

ksa

To

1. The District Collector,
Kanyakumari,
Kanyakumari District.
2. The Thasildhar,
Vilavancode,
Kanyakumari District.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.2634 of 2017**

14.11.2022