



W.P.No.1780 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.1780 of 2021 and
W.M.P.No.1991 of 2021 and
W.M.P.No.7772 of 2023

- 1.A.Jawaher
- 2.A.Bharathi
- 3.T.Bharathiraja
- 4.R.Balaji
- 5.J.Jayaraman
- 6.P.Rajam
- 7.J.John Franklin
- 8.D.Sampathkumar
- 9.R.Jayanthi
- 10.B.Kiruthiga
- 11.M.Sivakumar
- 12.T.Sathiya
- 13.R.Kirthikabai
- 14.V.Karunakaran

... Petitioners

Vs.

- 1.The Principal Secretary to
Government,
Rural Development and
Panchayat Raj Department,
Secretariat,
Chennai - 9.



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2.The Director of Rural Development,
Panagal Buildings,
Saidapet, Chennai 600 015.

3.The District Collector,
Cuddalore District,
Cuddalore 607 001.

4.The District Employment Officer,
District Employment Exchange,
Cuddalore 607 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent in Na.Ka.No.Pa.Aa.2/5671/2020, dated 10.12.2020 and quash the same and consequently, direct the respondents 1 to 3 to absorb all the petitioners as Overseers or any other equivalent post in the Rural Development and Panchayat Raj Department in the existing vacancy as per the Government Order in G.O.Ms.No.65, Rural Development and Panchayat Raj (SGSII) Department, dated 03.07.2013.

For Petitioners : Mr.P.Kannan Kumar

For Respondents : Mr.V.Arun, AAG, assisted by
Mr.T.Arunkumar, GA

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 3rd



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respondent in Na.Ka.No.Pa.Aa.2/5671/2020, dated 10.12.2020 and quash the same and consequently, direct the respondents 1 to 3 to absorb all the petitioners as Overseers or any other equivalent post in the Rural Development and Panchayat Raj Department in the existing vacancy as per the Government Order in G.O.Ms.No.65, Rural Development and Panchayat Raj (SGSII) Department, dated 03.07.2013.

2. Heard Mr.P.Kannan Kumar, learned counsel for the petitioners and Mr.V.Arun, learned Additional Advocate General assisted by Mr.T.Arunkumar, learned Government Advocate for the respondents.

3. The petitioners have completed Diploma in Civil Engineering and appeared for the written examination to be appointed as Technical Assistant to oversee the implementation of Special Housing Programme for Thane affected Cuddalore District. The petitioners had participated in the certificate verification held on 22.12.2012 and appeared for the written examination on 27.12.2012. After they had successfully cleared the written examination, they were issued with the appointment order on



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tenure basis as Technical Assistant on consolidated pay of Rs.12,000/-.

The petitioners immediately joined the duty and they were working for atleast four years. Thereafter, they were terminated on 30.08.2016. The impugned notification has been given on 10.12.2020 calling for applications for the post of Overseer and Draughtsman. Therefore, this Writ Petition has been filed seeking the above prayer.

4. The contention of the learned counsel for the petitioners is that the petitioners are entitled to the benefit of G.O.Ms.No.65 dated 03.07.2013 in which it is stated that the persons similarly placed like the petitioners under Thane Scheme may be observed as Overseer in Rural Development and Panchayat Raj Department after completion of the project in the available vacant posts on seniority basis. According to the petitioners, they ought to have been observed whenever the vacancy arises in the respective post. But the respondents had given notification by calling applications from the open market which is illegal.

5. The learned Additional Advocate General appearing for the respondents submitted that no recruitment has been done subsequent to



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the impugned notification dated 10.12.2020. Further, the Government has also given an Order in G.O.Ms.No.97, Rural Development and Panchayat Raj (E3) Department dated 25.08.2022 by giving the power of recruitment to the Tamil Nadu Public Service Commission and hence, the relief sought by the petitioners itself has become infructuous.

6. However, the learned counsel for the petitioners submitted that the petitioners' prayer is not only to quash the notification but also to issue Writ of Mandamus for observing these petitioners as Overseers or any other equivalent post in the Rural Development Panchayat Raj Department in view of G.O.Ms.No.65 dated 03.07.2013.

7. It is not in dispute that the petitioners have been recruited under Thane Project. On perusal of the appointment order, it is seen that the petitioners have been recruited for the post of Technical Assistant on tenure basis on consolidated pay of Rs.12,000/-. It has been made clear in the conditions of appointment that the appointment is temporary in nature and after the expiry of the Project, the appointees shall not claim any priority in any other future employment. Accordingly, the petitioners have given an undertaking and joined the service.



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8. In G.O.Ms.No.65, Rural Development and Panchayat Raj (SGS.II) Department, dated 03.07.2013, it has been mentioned as under:

(iii) The post of Technical Assistant which can be recruited through Employment Exchange on consolidated pay of Rs.12,000/- per month may also be absorbed as Overseer in Rural Development and Panchayat Raj Department after completion of this project in the available vacant post on seniority basis (Registration in the Employment Exchange).

9. Now the petitioners taking advantage of the said Clause under G.O.Ms.No.65, Rural Development and Panchayat Raj (SGS.II) Department, dated 03.07.2013 and claims that the Government has given assurance to observe the persons like the petitioners to be posted as Overseers in the Rural Development and Panchayat Raj Department after the project is completed and now has taken a different stand by not giving the benefit to the petitioners. Even though the Government has given some hope to the petitioners that they might be observed as Overseers at any future point of time after completion of the Project, that



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cannot be taken an assurance or undertaking on the part of the Government.

10. The word “may” cannot be read as “shall”. The obligation cannot be imposed upon the State that they should consider these petitioners for observing as Overseers in any Rural Development Panchayat Raj Department without recruiting any other candidates from open market. Though nothing can bind the Government, it is for the Government to appreciate the service rendered by the petitioners in the times of calamity and make some reservations if it deems fit in the future notifications given to fill up the similar vacancies.

11. The learned counsel for the petitioners submitted that it would be worthwhile if some age limit is given to the candidates like the petitioners. The disappointment of the petitioners is understandable. However, no right in advance can be conferred on the petitioners even before any action is taken for appointment for any identified vacancies. However in the interest of the petitioners, the fourth respondent shall restore the seniority of the petitioners. The respondents 1 to 3 shall



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consider the petitioners for appointment in the existing / future vacancies or for any walk-in-interview posts by giving certain relaxation / preference which is possible or suitable.

12. With the above observations, this Writ Petition is disposed and the the fourth respondent is directed to restore the seniority of the registration of the petitioners in his records for sponsoring them as and when the vacancies suiting their qualification are available and applications called for. The respondents 1 to 3 shall consider the petitioners for appointment in the existing / future vacancies or any walk-in-interview posts by giving any relaxation / preference which is possible or suitable. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes
Internet : Yes/No
gsk



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