



W.P.No.21851 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.21851 of 2013

K.Durairaj

.. Petitioner

vs

1.The District Collector cum
Inspector of Panchayats,
Tiruppur.

2.The Block Development Officer,
(Village Panchayat)
Madathukulam Panchayat Union,
Tiruppur District.

3.Kadathur Village Panchayat,
rep. by its President,
Madathukulam Taluk,
Tiruppur District.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the 1st respondent's impugned order in Na.Ka.No.4759/2011/Vi6 dated 10.07.2013 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner as Panchayat Secretary in the 3rd respondent Kadathur



W.P.No.21851 of 2013

Village Panchayat in conformity with the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 issued by the Principal Secretary to Government in G.O.(Ms) No.72 Rural Development & Panchayat Raj (E5) Department dated 09.07.2013 with consequential benefits.

For the Petitioner : Mr.M.Purushothaman

For the Respondents : Mrs.M.Geetha Thamaraiselvan
Spl. Government Pleader

ORDER

This writ petition is filed challenging the impugned order dated 10.7.2013 whereby the District Collector, as Inspector of Panchayat, has cancelled the appointment of the petitioner as Panchayat Secretary of Kadathur Village Panchayat.

2. The case of the petitioner is that, on 27.2.2007, the Kadathur Panchayat has passed a resolution appointing the petitioner as temporary Panchayat Secretary. Thereafter, the petitioner was appointed as regular Panchayat Secretary on 7.7.2008 and he was performing his duties to the satisfaction of all his superior officers. Subsequently, a complaint was raised about



W.P.No.21851 of 2013

his employment and the Assistant Director of Panchayat was directed to inquire into the matter. Pursuant thereto, the enquiry was conducted. In the enquiry, the petitioner had also participated. However, the impugned order is passed cancelling his appointment.

3. The contention of the petitioner is that cancellation was made on two grounds. Firstly, it is held that the petitioner does not belong to the concerned village. As a matter of fact, the petitioner is residing at No.1/65C, Kadathur Village. Even otherwise, when the petitioner belongs to a nearby village and even when transfer on the administrative ground is contemplated under the Rules, the appointment should not have been cancelled.

4. As regards the second ground that the petitioner was aged about 34 years - 3 months - 20 days, as on the date of his appointment on 7.7.2008 it is the contention of the petitioner that one day before passing the impugned order, i.e. on 9.7.2013, by G.O.(Ms) No.72, Rural Development & Panchayat Raj (E5) Department, new Rules were framed and in that Rules, 35 years is



W.P.No.21851 of 2013

prescribed as upper age limit. Therefore, the petitioner contends that the impugned order of cancellation is liable to be set aside.

5. The writ petition is resisted by the respondents by filing counter-affidavit. It is their contention that while preference has to be given in respect of persons who are residing in the same village, the petitioner was not the resident of the same village and merely because the President of the Panchayat, who proposed his candidature, has stated that he was residing in Kadathur Village, he was appointed. Therefore, his appointment was incorrect. Secondly, as on the date of appointment, the upper age limit applicable to the post of Panchayat Secretary is 33 years in respect of Backward Community category. Therefore, when the petitioner was over-aged and when his appointment was made without following even the eligibility conditions prescribed under the Rules, the same has rightly been cancelled.

6. Heard Mr.M.Purushothaman, learned counsel appearing on behalf of the petitioner, who reiterated the averments made in the



W.P.No.21851 of 2013

writ petition as above and also Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader appearing on behalf of the respondents, who reiterated the submissions made in the counter-affidavit as above.

7. I have considered the rival submissions and also perused the materials available on record.

8. As far as the age limit is concerned, even though the Rules, viz. The Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, has come into force with effect from 9.7.2013, the same would be applicable only in respect of the vacancies which arise on or after 9.7.2013 and the appointments which are made after coming into force of that Rules. It will not apply to the appointment of the petitioner, which was in the year 2008. As on the date of appointment of the petitioner, i.e., on 7.7.2008, it is not disputed even by learned counsel for the petitioner that the upper age limit was only 33 years and the petitioner was over-aged. In that view of the matter, when an



W.P.No.21851 of 2013

appointment is made even without considering the eligibility criteria and the same is *de hors* the Rules, then the District Collector, as the Inspector of the Panchayat, has every right to inquire into the same and cancel the appointment, if it is illegal. Therefore, when the appointment of the petitioner was cancelled after giving due opportunity to the petitioner and exercising the power conferred on the District Collector, this Court cannot interfere in the matter.

9. Finding no merit in the writ petition, the same is dismissed.

There will be no order as to costs.

01.12.2023

Index : Yes
Neutral Citation : No
bbr



W.P.No.21851 of 2013

To

WEB COPY

- 1.The District Collector cum
Inspector of Panchayats,
Tiruppur.
- 2.The Block Development Officer,
(Village Panchayat)
Madathukulam Panchayat Union,
Tiruppur District.
- 3.The President,
Kadathur Village Panchayat,
Madathukulam Taluk,
Tiruppur District.



WEB COPY



W.P.No.21851 of 2013

D.BHARATHA CHAKRAVARTHY,J.

bbr

W.P.No.21851 of 2013

01.12.2023