



WP.Nos.20501 & 30156/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.Nos.20501 & 30156 of 2016

&

W.M.P.Nos.26121 and 26122 of 2016

C.Madhappan

... Petitioner in
both Writ Petitions

Versus

1.The Executive Officer,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.

... R1 in both the
Writ Petitions

2.The Chairman,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.

3.The Appointment Committee Member,
9th Ward Counselor,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.

4.M.Venkatesan

... RR 2 to 4 in
WP.No.30156/2016



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5.Mr.Subiramani
The Chairman,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.

6.Mr.Saravanan
The Appointment Committee Member,
9th Ward Counselor,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.

... RR 2 & 3 in
WP.No.20501/2016

Prayer in WP.No.20501/2016:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus to direct the respondents to appoint the petitioner as a sanitary worker in Selection Grade Town Panchayat Office, Pennagaram Post and Taluk as per G.O.No.129 dated 20.07.1998 issued by the Municipality and Water Supply Department and G.O.No.21, dated 02.02.2000 issued by the Labour and Employment Training Department within a time frame to be fixed by this Court.

Prayer in WP.No.30156/2016 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the entire records relating to Impugned Order in Na.Ka.No.166/2016/A1 dated 25.05.2016 issued by the 1st respondent in favour of 4th respondent and quash the same and consequently direct the 1st respondent to appoint the petitioner as a Sanitary Worker from the date of



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appointment of the 4th respondent i.e., 25.05.2016 along with benefits.

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For Petitioner in both
Writ Petitions : Mr.T.Karunakaran

For RR1 to 3 in WP.No.
30156/2016 & RR 2 & 3
in WP.No.20501/2016 : Mr.S.Ravi Kumar
Special Government Pleader

For R4 in WP.No.30156/16: Mr.M.R.Jothimanian

COMMON ORDER

- (1) Both the writ petitions have been filed by the very same petitioner C.Madhappan and arguments were advanced in both the writ petitions and since the facts overlap, it is only prudent that a common order is passed.
- (2) WP.No.20501/2016 had been filed in the nature of a mandamus seeking a direction to the respondents, primarily the 1st respondent, Executive Officer, Selection Grade Town Panchayat Office, Pennagaram Post and Taluk in Dharmapuri District, to appoint the petitioner as a Sanitary Worker in the Selection Grade Town Panchayat Office, Pennagaram Post as per G.O.No.129 dated



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20.07.1998 issued by the Municipality and Water Supply Department and also G.O.No.21 dated 02.02.2000 issued by the Labour and Employment Training Department.

- (3) In effect, the relief sought was that the petitioner should be appointed as Sanitary Worker in the Selection Grade Town Panchayat Office, at Pennagaram Post in Dharmapuri District and for this, the petitioner places reliance on two Government Orders, namely, G.O.No.129 dated 20.07.1998 and more importantly, G.O.21 dated 02.02.2000. When the said writ petition was pending, the selection process had proceeded with and therefore, the second writ petition in WP.No.30156/2016 had been filed by the petitioner herein.
- (4) WP.No.30156/2016 had been filed by the same petitioner C.Madhappan in the nature of a certiorarified mandamus seeking records relating to the Impugned Order in Na.Ka.NO.166/2016/A1 dated 25.05.2016, issued by the 1st respondent, Executive Officer, Selection Grade Town Panchayat Office, Pennagaram Post and Taluk in Dharmapuri District in favour of the 4th respondent, M.Venkatesan and to quash the same and to direct the 1st respondent to appoint the



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petitioner as Sanitary Worker from the date of appointment of the 4th respondent namely, 25.05.2016, along with attendant and monetary benefits.

- (5) Since the second writ petition is the one which has been very strenuously argued, let me relate the facts as stated in the affidavit in WP.No.30156/2016.
- (6) In the affidavit filed in support of the writ petition, it had been stated that the petitioner had failed in his 10th standard examination and had registered himself in the District Employment Office at Dharmapuri on 12.07.1994. He also specifically registered himself for employment as Sanitary Worker in Code No.54120 on 04.10.1995. He had also renewed the said registration once in every three years. There was a vacancy of Sanitary Worker in the 1st respondent Panchayat, namely, at Pennagaram and the 1st respondent, to fill in that particular post, had requested the list of eligible candidates from the District Employment Office. The District Employment Office had forwarded a list of five prospective candidates and the petitioner was also one of them and the name of the 4th respondent was also in the



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said list. Thereafter, interview was conducted by the 1st respondent / Executive Officer and also by the Chairman of the Selection Grade Town Panchayat at Pennagaram and also by the Committee Member/9th Ward Counselor of the same Panchayat.

(7) The petitioner attended the interview. He had produced all the relevant documents. At that time fearing that he may not be selected, he had filed WP.No.20501/2016 seeking a mandamus to be so appointed. Even when that writ petition is pending, the selection process result had been declared by the 1st respondent by which the 4th respondent had been declared as having been selected as Sanitary Worker and was appointed as such and this had necessitated filing of the second writ petition, WP.No.30156/2016.

(8) The main ground raised by the petitioner herein challenging the appointment of the 4th respondent is that the petitioner had specifically enrolled himself as Sanitary Worker and registered that in the Employment Exchange with Code No.54120, whereas, according to the information received under the Right to Information Act,



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according to the learned counsel for the petitioner, the 4th respondent had not so registered as Sanitary Worker. Another ground raised questioning the appointment of the 4th respondent is the reliance placed on G.O.No.21, dated 02.02.2000, which granted relaxation of age of one year for every three years when registration with the Employment Exchange was pending with a total maximum period of five years. The petitioner, at the time of the interview was 37 years. The minimum age for appointment was 32 years and therefore, the learned counsel placed reliance on the aforementioned G.O.No.21 dated 02.02.2000 and claimed that if five years age relaxation is given to the petitioner, then he would be only 37 years and owing to the reservation, he would be still eligible for appointment as Sanitary Worker.

- (9) It is also contended that the 4th respondent had completed his 8th standard only in the year 2011, but had registered himself as seen from the document filed along with the writ petition in the year 2009 and therefore, a reasonable apprehension is raised that such registration is not proper. The petitioner therefore, claims that the



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appointment of the 4th respondent has to be interfered with by this Court.

- (10) It should be noted that the petitioner had been rejected from being appointed primarily on the ground of age. Therefore, reliance is placed on G.O.No.21 dated 02.02.2000 seeking such relaxation in the age.
- (11) The learned Special Government Pleader appearing for the respondents 1 to 3 in WP.No.30156/2016 however, justified the appointment of the 4th respondent by claiming that G.O.No.21 dated 02.02.2000 had been subsequently clarified and it is very specifically stated by the learned Special Government Pleader that such age relaxation would be applicable only to those Departments which come under the Central Government / State / Central allied Departments and would not apply to Panchayats specifically or Municipalities. This stand of the learned Special Government Pleader however, is contested by the learned counsel for the petitioner.
- (12) It is also contended by the learned Special Government Pleader that the petitioner is questioning the selection process and it had been



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stated that the selection process is to the subjective satisfaction of the Selection Committee who had given their reasons and therefore, this Court cannot substitute itself for the Selection Committee and examine the reasons given thereof and appoint the petitioner overlooking the credentials of the 4th respondent. It is further stated that the entire process had been done in accordance with the Rules and Regulations and therefore, no interference is called in the selection of the 4th respondent and that the writ petitions should be dismissed.

- (13) The learned counsel for the 4th respondent justified the selection of the 4th respondent by claiming that the statement that the 4th respondent had registered in the Employment Exchange in the year 2009 is not correct and that he had registered himself only in the year 2013 and that year was also found in the list which had been forwarded by the Employment Exchange. It had also been contended that he had registered specifically as Sanitary Worker. It had been contended that on the date of selection, it was only the 4th respondent who was within the age limit and therefore, was suitable to be appointed as Sanitary



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Worker. It was therefore, contended that the writ petitions should be dismissed.

(14) I have carefully examined the arguments advanced and perused the relevant records.

(15) The following facts cannot be either denied or disputed:-

(a) The petitioner had failed in his 10th standard and with NCO Code No.X0210 had registered himself in the District Employment Office at Dharmapuri initially on 12.07.1994.

(b) The petitioner had also registered himself as Sanitary Worker on 04.10.1995 with NCO Code No.54120.

(16) These two facts are clear. Even in the letter forwarded by the Employment Exchange, these facts are again stated. The one contentious fact is about the registration of the 4th respondent. In the Identity Card of the 4th respondent, as produced by the 4th respondent herein, it is seen that the 4th respondent had registered himself on 04.07.2013 with NCO Code No.X0210. The 4th respondent had left the School on 21.04.2011 after completing his 8th standard. It is contended by the learned counsel for the petitioner that there are



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documents to show that the 4th respondent had registered in the year 2009. But, let me not go deeply into that allegation since, it is only obviously a typographical error since the Employment Card showed that the 4th respondent had registered himself on 04.07.2013. The one factor which is not clear from the available documents is whether the 4th respondent had registered himself as a Sanitary Worker with specific NCO Code No.54120.

- (17) Be that as it may, in the list forwarded by the Employment Exchange, it is stated that both the petitioner and the 4th respondent had registered themselves in NCO Code No.54120. The date of registration of the 4th respondent, however, had been given as 04.07.2009, which is obviously wrong and therefore, there is no indication as to the actual date on which the 4th respondent had registered himself as Sanitary Worker with NCO Code No.54120 and if the 4th respondent had not registered himself as Sanitary Worker with NCO Code No.54120, then the Employment Exchange should never have forwarded his name for the post of Sanitary Worker which was the post for which the interview was conducted and vacancy was



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available. This is a fact which can be examined only by the 1st respondent / Executive Officer.

(18) The second aspect is about the applicability of G.O.No.21 dated 02.02.2000. On the face of it, G.O.No.21, grants relaxation of one year for every three years for which any individual had registered himself and had not been sponsored by the Employment Exchange. The maximum period of age relaxation would be five years. There is a clarification issued, that this would not be applicable to Panchayats in a narrow sense. But, whether such Circular could override the Government Order, is again an issue which has not been answered. It is for the 1st respondent to examine this particular clarification and examine whether that would be applicable to panchayats in spite of G.O.No.21 dated 02.02.2000.

(19) There is yet another Government Order which will have to be kept in mind by the 1st respondent namely, G.O.276, Labour and Employment Training Department, dated 24.12.2010. This is a subsequent Government Order and in that, it had been stated that there is a responsibility cast on those who select employees through



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the Employment Exchange to verify the certificates, come to personal satisfaction that the certificates are genuine and that the Rules are properly applied and only thereafter, to select those who are sponsored by the Employment Exchange. This Government Order assume significance since, it is the specific contention of the petitioner that the 4th respondent had not registered himself under the category of Sanitary Worker with NCO Code No.54120. This allegation has to be verified by the 1st respondent. If the 4th respondent had not registered himself as Sanitary Worker with Code No.54120, then the entire list forwarded by the District Employment Exchange including his name, would not be proper since his name had been wrongfully included and there must be some other person who would have registered himself as Sanitary Worker and who had been left out.

(20) Therefore, the entire issue will have to be examined from the following angles:-

A) The registration of the 4th respondent or otherwise as Sanitary Worker under NCO Code.No.54120.

B) Applicability of G.O.No.21 dated 02.02.2000.



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C) Applicability of the Circular stating that it is not applicable or rather, the age relaxation mentioned in G.O.No.21, is not applicable to the Panchayats.

D) Applicability of G.O.Nos.129 dated 20.07.1998 ; and

E) The annexure giving the list of candidates for which that particular Government Order is applicable which also includes துப்புரவாளர்கள் / Sanitary Workers.

(21) These are aspects which the Selection Committee should keep in mind and answer point by point. When they take a decision to select one candidate over the other, a cursory resolution passed that the petitioner is disqualified on the ground of age, would not be a proper order and would not stand scrutiny of this Court.

(22) Employment is an important aspect and the only opportunity for employment is through the Employment Exchange which the petitioner had registered himself in the year 1995 and therefore, this would be the only opportunity for the petitioner to get any employment, particularly as he claims this particular employment can be granted only on the basis of relaxation of age and not otherwise.



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Therefore, the Impugned Order will necessarily have to be revisited by the 1st respondent / Executive Officer. He may form a separate team to be along with him in the selection process and thereafter, re-examine the entire records of the petitioner and the 4th respondent. Necessary orders in that particular regard have to be passed within a period of eight weeks from the date of receipt of a copy of this order.

- (23) Notices may be issued to both the petitioner and the 4th respondent and independent of the records in the Employment Exchange, the Certificates of the petitioner and the 4th respondent may be examined and thereafter, a detailed order may be passed answering all the above aspects. Till that decision is taken, the 4th respondent may continue to work as Sanitary Worker since that particular work is important in the Panchayat. But, once a decision is taken, necessary orders will have to be issued dating back to the original date on which the interview was called for and on which date, the vacancy had fallen. As stated, the 1st respondent has to necessarily comply with this direction within a period of eight weeks from the date of receipt of a copy of this order since the 4th respondent is, till such decision is taken, is



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permitted to continue in work.

(24) The writ petition in **WP.No.30156/2016 stands disposed of. In view of this particular order, no orders are required in WP.No.20501/2016 and the same stands dismissed.** It is made clear that though that was for a mandamus and the word 'dismissed' is used, still the candidature of the petitioner should be considered by the 1st respondent on equal terms in accordance with the directions given above. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2023

AP
Internet : Yes



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To
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Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
Dharmapuri District – 636810.
- 2.The Chairman,
Selection Grade Town Panchayat Office,
Pennagaram Post and Taluk,
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Dharmapuri District – 636810.

C.V.KARTHIKEYAN, J.,



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