



WEB COPY



W.A.No.631 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.631 of 2020
and C.M.P.No.8771 of 2020**

1.The District Collector
Vellore, Vellore District.

2.The Executive Officer
Alangayam Selection Grade Town Panchayat
Alangayam, Vaniambadi Taluk
Vellore District.

... Appellants

-Vs-

1.S.Lakshmi
2.Tmt.S.Ravanammal

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.20592 of 2010 dated 17.03.2020.

For Appellant : Mr.K.V.Sajeev Kumar
Special Government Pleader
For Respondents : No appearance

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This writ appeal has been directed against the order passed by the writ Court dated 17.03.2020 in W.P.No.20592 of 2010.



W.A.No.631 of 2020

2. The second respondent herein viz., S.Ravanammal was appointed in the post of Sweeper at the second appellant Town Panchayat. However, that appointment was challenged by the first respondent herein in the said writ petition in W.P.No.20592 of 2010. The learned Judge who heard the matter has come to the conclusion that the writ petitioner Lakshmi was 41 years 8 months old while the second respondent was only 37 years old and the post is only Sweeper post, for which there is no special training required, as per the employment exchange seniority if at all to be taken, the senior most person has to be taken and therefore Lakshmi and not Ravanammal has to be appointed. Therefore, on this ground, the learned Judge has come to the conclusion and passed the following order.

" 9. The petitioner was aged 41 years and 8 months while the 3rd respondent was aged 37 years. Both have waited for a call for employment exchange. Between the two, the petitioner was senior. G.O.Ms.No.98, dated 17.07.2006 is of no relevance in view of Circular Na.Ka.No.88549/98/J-3, dated 17.02.1999. The post of sweeper does not require any technical experience. Therefore, there is no justification in stating that the petitioner lacked experience. The petitioner should be appointed. Since the 3rd respondent has already been appointed, it would unfair to declare her appointment illegal at this distant point of time.

10. I therefore direct the 2nd respondent to appoint the petitioner as a sweeper against the available vacancy within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall be allowed to continue in service till the date of her superannuation subject to the petitioner qualifying other criteria.



W.A.No.631 of 2020

3. Aggrieved over the same, the District Collector and the Town Panchayat had preferred the present intra Court appeal. Assailing the order, the learned Special Government Pleader appearing for the appellants would contend that, as per G.O.Ms.No.98 dated 17.07.2006, since it has relaxed the age criteria upto a period of five years on the date of interview and in view of the ban order under G.O.No.212, Personnel and Administrative Reforms Department dated 29.11.2001, the appointment that has been made in favour of Ravanammal cannot be questioned.

4. The learned Judge also, insofar as the appointment made in respect of Ravanammal is concerned, has not interfered with such appointment as it has already been made, where Ravanammal has been working and therefore it cannot be declared illegal at this distance of time. In view of the said order of the learned Judge, the said Ravanammal is continuing. But, insofar as the finding given by the learned judge, since it is the grievance of the appellants, the present appeal has been filed.

5. We have also asked the learned Special Government Pleader appearing for the appellants to state whether there are any vacancies available in the second appellant Town Panchayat for the post of Sweeper. For the said query, the learned Special Government Pleader on oral instructions has clarified that, there are two vacancies, but merely because vacancies are there, it cannot be stated that the direction given by the learned Judge is to be justified and therefore appointments



W.A.No.631 of 2020

can be made.

WEB COPY

6. We have considered the said submission made by the learned Special Government Pleader appearing for the appellants. Insofar as the appointment that has been made to Ravanammal ie., the second respondent is concerned, it has not been disturbed by the learned Judge. Therefore, there could be no quarrel on her appointment as she is stated to be continuing.

7. Insofar as the claim that has been made by the first respondent ie., the writ petitioner S.Lakshmi is concerned, after having gone through the impugned order passed by the writ Court, we do not find any error in giving such a direction to the appellants by the learned Judge to appoint the first respondent Lakshmi also as Sweeper. Since the said Lakshmi is senior to Ravanammal and Ravanammal's appointment has not been disturbed, Lakshmi is also entitled to get appointment. In this context, the present status of the vacancy position is that, there are two vacancies available in the appellant Town Panchayat. When that being so, in one such vacancy, appointment can be given to Lakshmi as Sweeper as she is fully qualified to hold the post, as she is senior to Ravanammal even at the time of making the appointment in favour of S.Ravanammal. In view of the aforesaid, we dispose of this appeal with the following orders.

- That the impugned order dated 17.03.2020 made in W.P.No.20592 of 2010 does not warrant any interference at our hands.



W.A.No.631 of 2020

Therefore, the order is to be sustained.

WEB COPY

- As there has been two vacancies available in the second appellant Town Panchayat, we direct the appellants to appoint the first respondent Lakshmi as Sweeper in the second appellant Town Panchayat in one such vacancy out of the two vacancies, which are available now. The said compliance shall be made by the appellants within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ appeal is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (G.A.M.,J.)
11.12.2023

Index : Yes/No
Internet : Yes/No
KST



WEB COPY



W.A.No.631 of 2020

R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

KST

W.A.No. 631 of 2020

11.12.2023