



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.27730 & 27734 of 2022

and

W.M.P.Nos.27023 & 27025 of 2023

1.V.Nagarajan	... Petitioner in WP.No.27730 of 2022
2.V.Jayakodi	... Petitioner in WP.No.27734 of 2022

Vs.

1.The District Collector, Dharmapuri District, Dharmapuri.	
2.The Block Development Officer, Pappireddipatti Panchayat Union, Dharmapuri District.	... Respondents in 2WPs

Common Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent in Na.Ka.No.449/2021/E2, dated 12.08.2022 and quash the same.



For Petitioners	: Mr.P.Kannan Kumar (in 2WPs)
For R1	: Mrs.V.Yamuna Devi Special Government Pleader (in 2WPs)
For R2	: Mr.T.Venkatesh Kumar Special Government Pleader (in 2WPs)

COMMON ORDER

The Commissioner of Panchayat Union, Pappireddipatti had appointed the 1st petitioner on 02.03.1987 as a part time writer and thereafter he was posted as Panchayat Assistant with effect from 17.01.1991 and the said post was re-designated as Panchayat Secretary. Likewise the 2nd petitioner was appointed as part time Panchayat Clerk on 01.03.1997 and thereafter she was also posted as Panchayat Assistant and ultimately as Panchayat Secretary.

2. The Government in G.O.Ms.No.230, Rural Development and Panchayat Raj Department dated 15.10.1996, had thereafter prescribed the qualification for the post of Panchayat Secretary as a pass in S.S.L.C. After serving as Panchayat Secretary for more than 25 years, both the petitioners herein have been relieved from the service through the impugned proceedings



dated 12.08.2022 issued by the Block Development Officer, Pappireddipatti Panchayat Union, Dharmapuri District. Challenging this order, present writ petitions have been filed.

3. The learned counsel for the petitioner submitted that the minimum qualification of pass in S.S.L.C was prescribed only through G.O.Ms.No.230 dated 15.10.1996 and therefore, the Government order cannot be applied retrospectively. He would further submit that the Appointing Authority is the Commissioner of Panchayat Union, Pappireddipatti and he is the competent authority to pass the impugned order and therefore, the present order passed by the Block Development Officer is without jurisdiction.

4. Per contra, the learned Special Government Pleader appearing on behalf of the respondents placed reliance on the averments made in the counter affidavit and submitted that the petitioners were originally appointed on part time basis and their services have not been confirmed till date. In view of the Government order stipulating the qualification as pass in S.S.L.C and failure on the part of the petitioners in not furnishing the S.S.L.C certificate, the impugned order came to be passed and hence, there is no infirmity in this



order. She further submitted that prior to the passing of the order, the respondents had directed the petitioners to produce the S.S.L.C certificate, which they have failed.

5. It is not in dispute that both the petitioners herein were originally appointed by the Commissioner of Panchayat Union, Pappireddipatti. The District Collector, through his proceedings in Na.Ka.No.998/2022/N2 dated 17.08.2022, had stated that any action of removal of the Panchayat Secretaries, can be exercised only by the Appointing Authority. The present impugned order has been passed by the Block Development Officer, who is not the Appointing Authority of the petitioners. That being so, the present order itself is without any authority and on that ground, the impugned order cannot be sustained.

6. That apart, the respondents have claimed that several opportunities were given to the petitioners to produce the S.S.L.C certificate and in view of their failure to produce the same, the present order of removal from service has been passed.



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7. Merely because the 2nd respondent herein had called upon the petitioners to produce the S.S.L.C certificate, which they have failed to produce, will not automatically entitle them to summarily pass an order removing from service, without issuing a show cause notice on the contemplated action. In other words, even when the respondents had sent some communications to the petitioners to produce the S.S.L.C certificate and they have failed, there is a bounden duty on their part to send a show cause notice on the contemplated action for non-furnishing of their S.S.L.C certificate and only thereafter, can the impugned order may be passed. In the absence of the same, the order itself is in violation of the principles of natural justice and on this ground also the petitioners are entitled to succeed.

8. Furthermore, the very purpose for which the S.S.L.C certificate is now sought for in view of the G.O.Ms.No.230 dated 15.10.1996, which stipulates the minimum qualification as pass in S.S.L.C. The petitioners herein were appointed prior to 1996. It is quite obvious that G.O.Ms.No.230 dated 15.10.1996 cannot have a retrospective effect on the appointments that have already been made and therefore, insisting the petitioners to produce S.S.L.C certificate is of no avail.



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9. For all the foregoing reasons, the impugned order passed by the 2nd respondent in Na.Ka.No.449/2021/E2, dated 12.08.2022 is quashed. Consequently, there shall be a direction to the respondents herein to forthwith reinstate the petitioners back into service, within a period of four (4) weeks from the date of receipt of a copy of this order.

10. With the above said directions, these Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.12.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order



To

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Block Development Officer,
Pappireddipatti Panchayat Union,
Dharmapuri District.

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