



W.P.No.14557 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.09.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.14557 of 2017

And

W.M.P.No. 15783 of 2017

V.Rajendran

... Petitioner

-Vs-

1. The Assistant Director
Urban Development,
Salem.
2. The Zonal Deputy Development Officer
Zone-I
Panamarathupatti Zone,
Salem.
3. The Block Development Officer
Panamarathupatti Panchayat
Salem.
4. The Secretary
Thambanaickenpatti Panchayat,
Salem.

... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings made in Na.Ka.No. 1227/2017/Thi3, dated 02.05.2017 on the file of the third respondent and quash the same consequently direct the third respondent to consider the petitioner's representation dated 06.06.2017.

For Petitioner	:	Mr. M.Pugzhendhi
For RR 1, 2 & 4	:	Mr. U.Baranidharan Additional Government Pleader
For 3 rd Respondent	:	Mr. N.Srinivasan

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to proceedings in Na.Ka.No. 1227/2017/Thi3, dated 02.05.2017 on the file of the third respondent / Block Development Officer, Panamarathupatti Panchayat, Salem and quash the same and direct the third respondent to consider the representation of the petitioner dated 06.06.2017.



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2. The petitioner belongs to Most Backward Community and working as Overhead Tank Operator under the fourth respondent / Thambanaickenpatti Panchayat, Salem. Earlier his father P.Venkatesan worked as Overhead Tank Operator under the said fourth respondent/ Thambanaickenpatti Panchayat, Salem. His father retired on attaining the age of superannuation on 31.08.2016. The former President of the fourth respondent called for applications for filling up the said post. The petitioner also applied for such post. The petitioner was selected as Overhead Tank Operator from 15.09.2016 on a resolution passed by the fourth respondent. Thereafter, the fourth respondent had to get approval from the third respondent/ Block Development Officer, Panamarathupatti Panchayat, Salem. The resolution was then forwarded for approval by the fourth respondent. The third respondent / Block Development Officer, Panamarathupatti Panchayat, Salem, refused to give such an approval and had directed the fourth respondent to discharge the petitioner herein. Challenging that particular order, the present Writ Petition has been filed.



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3. A status report had been filed that the petitioner is working as Overhead Tank Operator. It must be kept in mind that the said post is very essential not only to ensure that the motors are switched on and off and there is in flow of water and out flow of water from the tank but also to ensure that the tank is neat and clean so that the cleanliness of water is not affected.

4. It is also seen that in that particular village or rather the fourth respondent Panchayat, there are nine separate water tanks. The number of sanctioned post for Overhead Tank Operator are four. There are three persons, who are already working. The father of the petitioner was one among the four. He retired on attaining the age of superannuation. The petitioner was appointed in his father's place after resolution passed by the fourth respondent. This appointment has been objected to by the third respondent /Block Development Officer, Panamarathupatti Panchayat, Salem primarily placing reliance on G.O.Ms.No. 119, Rural Development Department, dated 10.05.2000.



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5. In the said Government Order, the Government had carefully examined the number of posts which could be sanctioned for Tank Operator and had brought in a scheme that for every tank, there need not a Tank Operator. On the other hand, the Government had increased the consolidated pay from Rs.350/- to Rs.400/- and had directed that an additional sum of Rs.150/- can be paid to the same Tank Operator for cleaning every additional tank. It had also been stated that a proposal was to be implemented to upgrade the skills of the Tank Operator by bringing in technical qualifications for the said post. But till this date, for the past 13 years, there is no information that steps have been taken in that regard.

6. Since the purport of the Government Order is not to appoint more than one Tank Operator and reduce the number of Tank Operators, the third respondent had justified the refusal to approve the resolution of the fourth respondent by stating that the petitioner had been appointed in the year 2016, whereas the Government Order passed in the year 2000 and was in force. The appointment of the other three Tank Operator are justified on the ground that they had been appointed prior to the Government Order.



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7. However, a careful reading of the Government Order shows that there are two separate aspects. One is about the number of sanctioned posts. It is not touched upon in the Government Order. It is only about the number of persons who should be employed as Tank Operators and the Government had taken a decision that it should not be one Tank Operator for every Tank but rather one Operator for all the tanks and additional remuneration and consolidated pay for every additional tank would be paid. There is no indication that the sanctioned posts have been reduced or have been abolished.

8. In the fourth respondent / Panchayat, the number of sanctioned posts are four. There are three Tank Operators, who are already working. The fourth post is vacant. The father of the petitioner was a Tank Operator, who retired on attaining the age of superannuation and therefore, that post is now vacant. After due consideration of the credentials of the petitioner, the fourth respondent had passed a resolution appointing the petitioner as the Overhead Tank Operator. The number of sanctioned posts have not been



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interfered with. The number of existing posts have not been interfered with in the Government Order. It only talks about the practice of appointing one Tank Operator for every Tank and the same Operator for additional tanks.

9. In the instant case, when there are nearly nine tanks in the fourth respondent Panchayat, it would only be prudent that all the sanctioned posts are filled up by the fourth respondent. There is no indication in the impugned order that the selection process was not proper and that the petitioner was chosen overlooking the credentials of other applicants.

10. In view of these facts, the impugned order is set aside. A direction is given to the third respondent to grant approval to the appointment of the petitioner herein from the date of the resolution of the fourth respondent as Tank Operator.



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11. The petitioner is already functioning as such and therefore, only an order will have to be passed confirming his appointment. Such order has to be passed within a period of twelve (12) weeks from the date of receipt of copy of this order.

12. The Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

vsg

05.09.2023

Index:Yes/No

Neutral Citation:Yes/No

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Panamarathupatti Panchayat
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4. The Secretary
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