



W.P.(MD)Nos.1568 of 2023 etc. batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)Nos.1568, 2349, 2350, 2194, 2577, 2578, 2354, 2738, 2740 and
3407 of 2023**

and

**W.M.P.(MD).Nos.2129, 2131, 2346, 2343, 2342, 2153, 2704, 2499, 2498,
2493, 2495, 2123, 2124, 1974, 1976, 2702, 1432, 2347, 3160 and 3162 of
2023**

W.P.(MD)No.1568 of 2023

S.Soorapandi

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Revenue and Disaster Management,
Chennai.

2.The District Collector,
O/o. The District Collector,
Ramanathapuram District.

3.The Tahsildar,
O/o. The Tahsildar,
Kadaladi,
Ramanathapuram District.

4.K.Ponraj

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 14.01.2023 in Na.Ka.Aa2/7244/2022 on the file of the third respondent and quash the same as illegal to the extent of serial No.1, who is respondent No.4 herein and consequently directing the respondents 1 to 3 to appoint the petitioner to the post of Village Assistant at Sikkal Village, Kadaladi Taluk, Ramanathapuram District within a time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan
For R1 to R3 : Mr.C.Satheesh
Government Advocate
For R4 : Mrs.Jeena Rita David

COMMON ORDER

Since the issue involved in these writ petitions is one and the same, they have been taken up together and disposed of by this common order.

2. Aggrieved by the selection of the private respondents as Village Assistants, the petitioners have filed the present writ petitions.



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3. The learned counsel appearing for the petitioners raised only three issues before this Court for challenging the selection process of the Village Assistant. As per Rule 6 of the Tamil Nadu Village Assistants Service Rules (hereinafter referred to as 'the Act'), the minimum educational qualification prescribed for the post of Village Assistant is 5th standard. However, the official respondents selected the candidates with higher qualifications viz., B.A., B.Com., B.E., B.Sc., etc., thereby depriving the rights of the person, who studied 5th standard or 10th standard. Further, more opportunity is available to the person, who acquired higher qualification and the Village Assistant being the lower grade post and it is only available to the person, who studied below 10th standard. Hence, the appointment of the private respondents, who acquired higher qualification, is arbitrary and the same is liable to be interfered with. Further, the awarding of marks is not based on any Rules, which has been spelt out only in G.O.(Ms.).574, Revenue and Disaster Management Department, dated 17.10.2020. When the awarding of marks is contrary to the Rules, the same cannot be allowed to continue.



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4. The learned counsel appearing for the petitioners would further submit that 15 marks awarded for interview is without any basis and without fixing any ratio, which defeats the purpose of selection. If without any basis, the marks are awarded, there is every possibility of awarding more marks to the ineligible candidates, which would vitiate the selection process. Further, the results were not send to the respective candidate. Without publishing the results, they awarded marks in favour of the successful candidates, who are the private respondents herein.

5. The learned counsel appearing for the private respondents would submit that the private respondents have acquired higher qualification and acquiring higher qualification is not a bar for participating in the selection process to the post of Village Assistant and in fact, under Rule 6 of the Tamil Nadu Village Assistants Service Rules, educational qualification is prescribed. As per the said Rule, no person shall be eligible for appointment to the post unless he has passed 5th standard from a school recognised by the Government of Tamil Nadu and the person, who studied



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5th standard, is entitled to participate in the selection process and that does not mean the person, who acquired higher qualification, is not entitled for participating in the selection process. In fact, the Village Assistant post is meant to every village and the minimum educational qualified person is not able to send the Government policies to the local villages. Hence, the person, who acquired higher qualification, is more suitable than the person, who acquired lower qualification. Further, Rule 7 of the said Rules relates to other qualifications. The Government issued G.O.(Ms.)No.574, Revenue and Disaster Management Department, dated 17.10.2020, introducing mark awarding system, which is in consonance with 6 and 7 of the Rules. Without challenging the Rules and the G.O, filing the present writ petitions, challenging the appointment made is illegal. Hence, he prayed for dismissal of these writ petitions.

6. The learned Government Advocate appearing for the respondents 1 to 3 would submit that the third respondent has issued a Notification, in order to fill up the vacancies for the post of Village Assistants through Employment Exchange as well as the web site. Out of



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the applications, eligible candidates were called for written examination and they were participated. Thereafter, interview was conducted and the person, who secured more marks alone was given appointment. Further, the result will be published to the respective petitioners within a reasonable time as fixed by this Court.

7. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondents 1 to 3, the learned counsel appearing for the fourth respondent and perused the materials available on record as well as the Rules.

8. It is not in dispute that the petitioners have participated in the selection process to the post of Village Assistant. The qualification prescribed is also not equally disputed. As per the notification, the following educational qualification is prescribed for the post of Village Assistant, which is as follows:

*“6. **Educational qualification:-** No person shall be eligible for appointment to the post unless he has passed*



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Vth standard in a recognized school namely, a school maintained by or opened with the sanction of the Government of Tamil Nadu or to which recognition has been accorded by the Director of School Education under the Tamil Nadu Educational Rules with sufficient knowledge to read and write Tamil.

7.Other qualifications:- (a) *No person shall be eligible for appointment to the post unless -*

(i) he is able to ride a bicycle

(ii) he satisfies the appointing authority that the character and antecedents are such as to qualify him for the post; and

(iii) produces a certificate regarding his physical fitness for the post in the Form prescribed under Rule 10 of the Fundamental Rules.

(b) No person shall be eligible for appointment to the post if he has more than one spouse living or if such a person has entered into or contracted a marriage with a person having a spouse living.

(c) The person appointed to the post shall belong to the village to which he is appointed or the adjoining village if no suitable candidate is available from that village.”



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9. A perusal of the above said Rule makes it clear that no person shall be eligible for appointment to the post, unless he has passed 5th standard in a recognised school, which means that the minimum qualification prescribed for the post of Village Assistant is 5th standard.

10. When the very same issue came up for consideration before the Apex Court in the case of ***Mohd.Riazul Usman Gani and Others Vs. District and Sessions Judge, Nagpur and Others*** reported in ***2000(2) SCC - 696***, it has been held as follows:

"19. We do not know what are the duties attached to the post of a peon. But perhaps one thing peons are not required to do the work of sweepers or gardeners. Qualifications for gardeners and sweepers have been separately provided in the Recruitment Rules and the only qualification for both the categories of these posts is "good physique and also to carry out the duties attached to the post."



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20. If an employee does not perform the duties attached to the post disciplinary proceedings can certainly be taken against him. An employer cannot throw up his hands in despair and devise a method denying appointments to a person who otherwise meets the requisite qualifications on the ground that if appointed, he would not perform his duties. Qualification prescribed is minimum. Higher qualification cannot become a disadvantage to the candidate.

(emphasis supplied)

11. From the above, it is culled out that higher qualification is not a bar for a person to be selected. In the cases on hand, it is not the case of the petitioners that for the post of Village Assistant, no higher qualification is required. As per the Rules, the minimum qualification alone is stipulated as 5th standard pass and it does not mean that higher qualified candidates are prohibited to apply for the said post.



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12. With regard to the other qualifications, a person shall be eligible for appointment to the post on satisfying the following conditions:

(i) he is able to ride a bicycle;

(ii) on satisfying the appointing authority with regard to character and antecedents and

(iii) on production of certificate of physical fitness in the Form prescribed under Rule 10 of the Fundamental Rules. Further, no person shall be eligible for appointment to the post if he has more than one spouse living or if such a person has entered into or contracted a marriage with a person having a spouse living and the person appointed to the post shall belong to the village to which he is appointed or the adjoining village if no suitable candidate is available from that village.

13. In these present cases, in order to facilitate the Rules 6 and 7, the Government issued the G.O.(Ms.)No.574, dated 17.10.2020 and the said G.O. was issued based on the direction issued by this Court in W.P. (MD).No.19924 of 2013, dated 14.06.2019, wherein this Court has issued a direction to the respondents therein to issue guidelines / instructions /



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circulars to the competent authorities to ensure that written examinations are conducted for selection to the post of Village Assistant (Thalayari) across the State of Tamil Nadu. Further, the procedures for written examination are directed to be prepared and communicated to all the authorities, enabling them to follow the same scrupulously. Accordingly, guidelines were issued for awarding marks with regard to the Educational Qualification, Riding / Driving Skill, Reading and Writing Skill, Nativity and Interview.

14. In respect of the educational qualification, the person, who acquired 9th standard, will be awarded 5 marks, 7 marks for Higher Secondary/Diploma/ITI and 10 marks for other higher qualifications. In respect of Riding/Driving Skills, the person will be awarded 5 marks for riding a bicycle; 7 marks for holding two wheeler licence (live) and 10 marks for holding four wheeler licence (live). In respect of Reading and Writing Skill, 10 marks for reading skill (both Tamil and English) and 30 marks for writing skill (both Tamil and English) totally 40 marks. In respect of Nativity, if the person residing in the same village 25 marks will be awarded and if the person residing within the Taluk limits 20 marks will be



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awarded and 15 marks for the interview. Hence, there is no arbitrariness in awarding marks to the private respondents.

15. In the present cases, the petitioners claimed that the persons, who secured lesser marks, were selected. However, the learned Government Advocate has categorically stated that the persons, who secured more marks alone were given appointment. In order to resolve the confusion, the respondents 1 to 3 are directed to communicate the result to the petitioners.

16. In the result, these Writ Petitions are dismissed with the aforesaid observations and direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

22.02.2023

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv/RR



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