



W.P(MD)No.5546 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5546 of 2023

G.Perumal

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Block Development Officer (Village Panchayat),
Madurai East Panchayat Union,
Madurai.

3.The President,
Y.Pudupatti Panchayat,
Y.Pudupatti,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to permit him to continue the petitioner service as overhead tank operator in the 3rd respondent panchayat and pay salary



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from 20.08.2022 in the light of the order passed by the 2nd respondent vide his proceedings in Na.Ka.No.714/2022/Thi7 dated 12.12.2022 and based on the petitioner representation dated 09.01.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.G.Suriyananth,
Addl. Government Pleader for R1.
Mr.M.Sarangan,
Addl. Government Pleader for R2 & R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner is presently working as Overhead Water Tank Operator in the third respondent panchayat. According to the third respondent panchayat, the petitioner had already reached the age of 60 years and therefore, he cannot be allowed to work. The learned Additional Government Pleader for the third respondent would submit that the third respondent has taken into account various documents such



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as voter identification card as well as ration card and therefore, the stand of the third respondent may not be interfered with.

3. In my view, the entries made in voter identification card and the ration card may not be relevant to decide the issue in this case. This is primarily because the entry in the petitioner's service book has been made on the assessment by the medical doctor. Section 59(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 provides for determining one's date of birth on the basis of medical opinion in the absence of any other authoritative records. In the case on hand, there is no authoritative record to determine the petitioner's age. Therefore, it has been assessed based on the medical opinion. The order of the second respondent is also based therein. The third respondent is therefore obliged to give effect to the order passed by the second respondent. I, therefore, direct the third respondent to permit the petitioner to continue as Overhead Water Tank Operator in the third respondent panchayat in the light of the order passed by the second respondent. The third respondent will permit the petitioner to join duty immediately. If the third respondent does not permit the petitioner the



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petitioner to join duty immediately, the third respondent will have to pay salary to the petitioner from 20.08.2022. If the third respondent permits the petitioner to join duty immediately, then the question of paying the arrears will not arise.

4.The writ petition is allowed on these terms. No costs.

21.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Block Development Officer (Village Panchayat),
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- 3.The President,
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G.R.SWAMINATHAN, J.

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