



W.P(MD)No.9504 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 06.06.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.9504 of 2023

and

W.M.P.(MD)Nos.8479, 8480 and 8481 of 2023

M.Jayarani

... Petitioner

**Vs.**

1.The District Collector,  
O/o. The District Collector,  
Pudukottai District.

2.The Tahsildar,  
O/o. The Tahsildar,  
Viralimalai Taluk,  
Pudukottai District.

3.B.Karuppayee

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order in Na.Ka.3810/2022/A3 dated 11.04.2023 on the file of the Respondent No.2 to quash the same as



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illegal and consequently direct the Respondent Nos.1 and 2 to cancel the appointment of the Respondent No.3 and appoint the petitioner as Village Assistant at Poiyyamani Village, Viralimalai Taluk, Pudukottai District.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.T.Vilavan Kothai,  
Addl. Government Pleader for R1 & R2.

### **ORDER**

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 and 2. Though the contesting private respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2.The case on hand pertains to filling up the vacancy in the post of Village Assistant in Poiyyamani Village, Viralimalai Taluk, Pudukottai District. It is not in dispute that the said post has been reserved for SC(A)(Destitute Widow) / PSTM. It appears that there were no candidates belonging to destitute widow category among SC(A). On the



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other hand, the third respondent who also one of the applicants happened to be a destitute widow. The authority chose to appoint the third respondent as Village Assistant for Poiyyamani Village. Challenging the selection of the third respondent, the present writ petition came to be filed.

3.The respondents 1 and 2 have filed counter affidavit and the learned Additional Government Pleader took me through its contents and pressed for dismissal of the writ petition.

4.After carefully considering the rival contentions, I am more than satisfied that the appointment of the third respondent is bad in law. Admittedly, the post in question has been earmarked for SC(A)(Destitute Widow) / PSTM. Section 26(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 reads as follows:-

*“26. (2) A minimum of thirty per cent of all vacancies which are to be filled through direct recruitment shall be set apart for women candidates irrespective of the fact whether the rule of reservation of appointment applies to the posts or not. In respect*



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*of the posts to which the rule of reservation of appointment applies, thirty per cent of vacancies shall be set apart for female candidates following the reservation for Scheduled Castes and Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified communities and General Turn. Women candidates shall also be entitled to compete for the remaining seventy per cent of vacancies along with male candidates:*

*Provided that in the case of direct recruitment to the posts with Grade Pay which does not exceed rupees two thousand and eight hundred, ten per cent of vacancies out of the thirty per cent vacancies set apart for women shall be set apart for destitute widows and the first vacancy in every ten vacancies set apart for destitute widows and the first vacancy in every ten vacancies set apart for women in each category, namely, the General Turn, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities, Scheduled Castes or Scheduled Tribes shall be set apart for destitute widows. If no qualified and suitable destitute widow is available, then, the turn so set apart for destitute widow shall go to the women (other than destitute widow) belonging to the respective category.*

*Explanation.— In this section, “destitute widow” shall have the same meaning as in Explanation-I under sub-section (8) of section 20.”*



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5.It clearly states that if no qualified and suitable destitute widow is available, then, the turn so set apart for destitute widow shall go to the women (other than destitute widow) belonging to the respective category. It only means that the appointing authority must appoint any woman belonging to SC(A) category. Only if there is no woman candidate belonging to SC(A) category, the authority could have selected a candidate from schedule caste other than SC(A). Admittedly, the third respondent does not belong to SC(A) community. It is for this reason, the appointment of the third respondent is quashed and the writ petition is allowed. The appointing authority shall re-do the exercise as per law. No costs. Consequently, connected miscellaneous petitions are closed.

**06.06.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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To:-

- 1.The District Collector,  
O/o. The District Collector,  
Pudukottai District.
- 2.The Tahsildar,  
O/o. The Tahsildar,  
Viralimalai Taluk,  
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