



W.P.(MD).No.17194 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.07.2023

PRONOUNCED ON : 25.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17194 of 2020

K.Parichithu

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Director (Panchayat),
Collectorate Complex,
Virudhunagar,
Virudhunagar District.

3.The Block Development Officer (Village Panchayat),
Kariyapatti,
Kariyapatti Taluk,
Virudhunagar District.

4.The President,
Thoppur Panchayat,
Thoppur,
Kariyapatti Taluk,
Virudhunagar District.

.... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent i.e., the District Collector, Virudhunagar in his impugned R.C.No.32109/2018/R2 dated 27.10.2020 and quash the same and consequently direct the first respondent i.e., the District Collector, Virudhunagar to consider the representation of the petitioner dated 04.10.2020 positively regarding his reinstatement in anyone of the vacancies of Panchayat Secretaries notified by him in his Memo No.R.C.No.R2/33373/2019 dated 29.09.2020 at the time of implementation of the notification dated 29.09.2020.

For Petitioner	: Mr.S.Visvalingam
For RR 1 & 2	: Mr.N.Muthu Vijayan Special Government Pleader
For R – 3	: Mr.Ragavendran
For R – 4	: Mr.A.K.Manickkam

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent i.e., the District Collector, Virudhunagar, dated 27.10.2020 and consequently direct the first respondent i.e., the District Collector, Virudhunagar to consider the representation of the petitioner, dated 04.10.2020 positively regarding his reinstatement in



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anyone of the vacancies of Panchayat Secretaries notified by him in his Memo No.R.C.No.R2/33373/2019 dated 29.09.2020 at the time of implementation of the notification, dated 29.09.2020.

2.The petitioner was initially appointed as part-time Panchayat Clerk in Thoppur Panchayat, Kariyapatti Taluk, Virudhunagar District by the proceedings of the third respondent dated 19.05.1997. The petitioner joined duty even before that on 01.11.1996 as per the resolution of the Panchayat. It was ordered on 19.05.1997 by the third respondent that the part-time Panchayat Clerk would get monthly honorarium of Rs.400/-. This honorarium was enhanced to Rs.754/- as per the proceedings of the third respondent dated 19.05.1997. On 06.04.2000, vide proceedings of the first respondent/the District Collector, Virudhunagar, the petitioner was placed under suspension. The said order of suspension was challenged before the Tamil Nadu Administrative Tribunal, Chennai and the same was stayed by the Tribunal in O.A.No.4517 of 2000 on 04.07.2000. As a result of which, the petitioner was reinstated into service on 31.07.2000 vide proceedings of the first respondent/the District Collector, Virudhunagar. The petitioner rejoined duty as Panchayat Clerk in Thoppur Panchayat on 14.08.2000. Thereafter, on 12.10.2001, vide the intimation of the



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third respondent, the petitioner was removed from service for the reason that a criminal case was registered in Crime No.258 of 2000 under Section 409 of I.P.C in Kariyapatti Police Station as against him. This order of removal from service was issued to the petitioner without following any procedure and without any notice. However, the said criminal case ended in acquittal as per the Judgment, dated 19.11.2019 on the file of the Judicial Magistrate Court No.II, Virudhunagar in C.C.No.349 of 2003. Therefore, the petitioner made a representation on 04.10.2020 to the first respondent/the District Collector, Virudhunagar seeking reinstatement into service. The third respondent sought for instructions from the Assistant Director of Panchayat on the petitioner's representation, dated 04.10.2020. The Assistant Director of Panchayat wrote to the first respondent for passing necessary orders on his representation. The District Collector, vide proceedings dated 27.10.2020, has informed that the request of the petitioner for reinstatement cannot be considered. Challenging the said impugned order, dated 27.10.2020, the present Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that the impugned order passed by the first respondent on



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27.10.2020 is not legally sustainable. He further submitted that the reasons stated there in the impugned order that the petitioner's request is bad for laches to an extent of 19 years from the date of termination from service and that presently the appointing authority is the Panchayat President of the Village Panchayat concerned in terms of G.O.Ms.No.175, Rural Development and Panchayat (E5) Department, dated 05.12.2006, cannot be accepted.

4.The learned counsel appearing for the petitioner further submitted that the petitioner was appointed by the third respondent/Block Development Officer on 19.05.1997. The petitioner was thereafter placed under suspension on 06.04.2000 as per the proceedings of the first respondent/District Collector, Virudhunagar and he was reinstated into service on 31.07.2000 by the proceedings of the District Collector, Virudhunagar and lastly on 12.10.2001, he was removed from service by the third respondent/the Block Development Officer, Kariyapatti. Nowhere in the appointment order of the petitioner or the removal of the petitioner from service, the Panchayat President of Thoppur Panchayat had any role. Under such circumstances, the impugned order mandating that the competent authority for appointing the Village Assistant in Village Panchayat in terms of G.O.Ms.No.175,



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Rural Development and Panchayat (E5) Department, dated 05.12.2006 is the Village Panchayat President concerned is not legally acceptable and hence, pressed for quashing the impugned order and thereafter, direct the first respondent to consider the petitioner's representation dated 04.10.2020 regarding his reinstatement.

5.Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 contended that it was the Village Panchayat President, who is the appointing authority, who removed the petitioner from service on the resolution passed by the Thoppur Panchayat and the same was approved and was intimated to the petitioner by the Block Development Officer. The Panchayat Clerks were normally appointed by the Village Panchayat itself and in this case also, the petitioner was appointed by the resolution of the Thoppur Panchayat, dated 01.11.1996 and he joined service as a part-time Panchayat clerk for a consolidated monthly honorarium of Rs.400/-. Later the post of Panchayat Clerks was redesignated as Panchayat Assistants from 01.01.1991 and they continued to work as part-time Panchayat Assistants. While so, as per G.O.Ms.No.175, Rural Development and Panchayat (E5) Department, dated 05.12.2006 such part-time Panchayat Assistants were given special time scale of pay



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and later revised as per the sixth pay commission as special time scale of pay at Rs.2,500-5000 with a grade pay of Rs.500/-.

6.The learned Special Government Pleader appearing for the respondents 1 and 2 further contended that the petitioner was appointed as a part-time Panchayat Clerk at Thoppur Village Panchayat by the resolution of the said Panchayat on 01.11.1996. The authority competent to appoint and remove the Panchayat Secretary is the Village Panchayat President of the concerned Panchayat. However, the petitioner was removed from service only because of the criminal case as per the Panchayat resolution No.152, dated 07.09.2001. After removal of the petitioner from the said post, one A.Agniveeran has been appointed as Panchayat Assistant from 07.03.2002 vide Panchayat Resolution No.56, dated 07.03.2002. After the demise of the said A.Agniveeran, one Selvi was appointed as Panchayat Secretary on 24.12.2018 by recruitment process, which was made by the Special Officer, since no local body elections were conducted at that point of time in the year 2018. All along these years, the petitioner neither challenged the order of the third respondent dated 12.10.2001 by which he was removed from service nor the subsequent appointment of Panchayat Assistant one A.Agni Veeran in the same



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Panchayat on 07.03.2002 or the direct recruitment of Selvi as Panchayat Secretary on 21.12.2018. Having slept over his rights for the past more than 19 years, now the petitioner is not entitled to seek reinstatement and hence, he pressed for dismissal of the Writ Petition.

7.Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents 1 and 2, Mr.Ragavendran, learned counsel appearing for the third respondent and Mr.A.K.Manikkam, learned counsel appearing for the fourth respondent and perused the materials available on record.

8.G.O.Ms.No.175, Rural Development and Panchayat (E5) Department, dated 05.12.2006, issued by the Secretary to the Government, Rural and Panchayat Department provides for the appointment of Village Assistants in all the Panchayats, wherein the power of posting and appointment of the Village Assistant is vested with the President of the concerned Village Panchayat. The petitioner was removed from service as early as on 12.10.2001. Having not challenged the said order of removal from service by the third respondent, now, after a period of 19 years, the petitioner cannot



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make an application seeking reinstatement into the service of the Panchayat Clerk. Moreover, the post of Panchayat Clerk has been redesignated as Panchayat Assistant with effect from 01.01.1991 and thereafter, such part-time Panchayat Assistants were given special time scale of pay as per G.O.Ms.No.175, Rural Development and Panchayat (E5) Department, dated 05.12.2006. This Court in **W.P(MD)No.853 of 2015, dated 16.11.2018 [A.Azhagammal Vs. the Principal Secretary to Government and others]** has held in paragraph No.5 as follows:-

"5.....The second respondent herein has intimated the writ petitioner about G.O (Ms) No.175 Rural Development Department dated 05.12.2006, wherein the power of posting and appointment of Village Assistant being vested with the President of the concerned village President. Despite putting into notice about the legal provision, she has neither approached the concerned person nor approached this Court immediately. The present writ petition has been filed in the year 2015.

6.The writ petitioner was terminated from service in the year 2001 and she was made known that it is a Village Panchayat President, who is the competent authority to consider the request. She has not made any request to the Village Panchayat



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President. After a delay of several years, in order to revive the list, he has filed the present Writ Petition."

9.The Hon'ble Division Bench of this Court in **W.A(MD)No. 364 of 2019, 11.04.2019 [A.Azhagammal Vs. the Principal Secretary to Government and others]** has held in paragraph No.7 of its Judgment as follows:-

"The learned Single Judge of this Court has rightly pointed out that though the second respondent intimated the appellant about G.O.(Ms) No.175, dated 05.12.2006, whereby and whereunder, the power of posting and appointment of Village Assistant has been vested with the President of the concerned Village Panchayat and putting into notice about the legal provision, she has neither approached the concerned person nor approached this Court immediately, but, filed the writ petition only in the year 2015.

10.Even in this case, vide impugned order, dated 27.10.2020, the first respondent/the District Collector, Virudhunagar has intimated to the petitioner that the Panchayat President is the competent appointing authority in terms of the aforesaid G.O.Ms.No.



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175, Rural Development and Panchayat (E5) Department, dated 05.12.2006 and in view of the passage of 19 years, another person has been appointed and presently the said person is in service and only on that ground, the petitioner's requisition was rejected.

11.It is evident from the facts and circumstances of this case that the post of part-time Panchayat Clerk itself has been redesignated into Panchayat Assistant. The post of part-time Panchayat Clerk for which the part-time consolidated wage of Rs.305/- per month was paid at the first instance was later brought into regular time special scale of pay and revised as per the sixth pay commission. The petitioner had remained a mute spectator of all these sea changes for 19 years and he was terminated while he was serving as a part-time Panchayat Clerk in Thoppur Panchayat on 12.10.2001. Now, by the strength of the acquittal order in C.C.No.349 of 2003 on the file of the learned Judicial Magistrate No.II, Virudhunagar, dated 19.11.2019, the petitioner cannot claim reinstatement into service of the redesignated post of Panchayat Assistant.



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12.With the above observations, this Writ Petition stands dismissed. There shall be no order as to costs.

25.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes
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Virudhunagar District,
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- 2.The Assistant Director (Panchayat),
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L.VICTORIA GOWRI, J.

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Pre-Delivery Order made in
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