



W.A(MD)No.126 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.126 of 2023
and
C.M.P(MD)No.1594 of 2023**

The President,
Kulathur Village Panchayat,
Nainar Kovil Union,
Ramanathapuram District.

... Appellant/3rd Respondent

vs.

1.N.K.Pokkaran

... 1st Respondent/Writ Petitioner

2.The District Collector/Inspector of Panchayat,
Ramanathapuram District,
Ramanathapuram.

3.The Block Development Officer,
(Village Panchayat),
Nainar Kovil Union Office,
Ramanathapuram District.

... Respondents 2 & 3/
Respondents 1 & 2

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.11.2022 passed in W.P(MD)No.6158 of 2022, on the file of this Court.

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For Appellant : Mr.B.Vinothkumar
For R – 2 : Mr.P.T.Thiraviyam
Government Advocate

JUDGMENT

[Judgment of the Court was made by D. KRISHNAKUMAR, J.)

Challenging the order, dated 11.11.2022 passed by the learned Single Judge in W.P(MD)No.6158 of 2022, this Writ Appeal has been preferred by the appellant / third respondent.

2.The first respondent/writ petitioner has filed the Writ Petition in W.P(MD)No.6158 of 2022, challenging the rejection order passed by the third respondent/second respondent for filling up the post of Panchayat Secretary of Kulathur Village Panchayat, on the ground that the first respondent/writ petitioner is not residing within Kulathur Village.

3.The learned Single Judge, by order, dated 11.11.2022, allowed the Writ Petition, wherein, it is held as follows:-



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"4. If a qualified and suitable candidate is not available in the village in question, then, it is open to the recruiting authority to select a candidate from the adjoining village panchayat but which must be within the same block. The petitioner fulfils the said condition. Even as per the earlier G.O., the very same position obtained. Therefore, the second respondent erred in rejecting the case of the petitioner on the sole ground that he was residing at a distance of 25 kilometers away from Kulathur Village. The impugned rejection order is set aside. However, I cannot straight away direct the respondents to issue appointment order to the petitioner for the post of Village Panchayat Secretary. There is no dispute that the post has been reserved for ex-service man. If no suitable or eligible candidate is available in the village in question, the petitioner will have to be considered. He cannot be treated as disqualified. The respondents are directed to take a call in the matter within a period of eight weeks from the date of receipt of a copy of this order. 5. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed."

Challenging the same, the appellant/third respondent has filed the present Writ Appeal.



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4. According to the appellant/third respondent, he mainly relied upon Rule 5(2) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013, which reads as follows:-

"5(2) Other Qualifications:-

(i) No person shall be eligible for appointment to the post, if he/she has not passed S.S.L.C issued under the authority of the Government of Tamil Nadu or any other equivalent examination prescribed by the Government to be equivalent thereto;

(ii) No person shall be eligible for appointment to the post unless he/she is a resident of the Village Panchayat concerned.

(iii) If no qualified and suitable candidate residing in the Village Panchayat concerned is available for selection for appointment to the post, eligible candidate from the adjoining Village Panchayats within the block shall be appointed."

5. In support of his contention, the appellant/third respondent raised the same ground in the Writ Appeal contending that the first respondent/writ petitioner is not eligible for selection to the post of Panchayat Secretary of Kulathur Village Panchayat, Ramanathapuram



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District. Hence, the impugned order passed by the Writ Court is liable to be set aside.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.We have perused the counter-affidavit filed by the appellant/third respondent in the Writ Petition, wherein, in paragraph No.5 of the counter-affidavit filed by the appellant/third respondent, it is stated that totally 65 applications were received for the Panchayat Secretary Post in respect of Kulathur Village Panchayat. The petitioner is also one among the applicant for the said post. It is specifically mentioned here that out of 65 applications, only five applications were received for the General Turn Ex-service man 'C' category. All those five eligible applicants were called for the interview scheduled on 09.10.2020. But only three persons have participated in the interview and the petitioner is also one among the participants in the interview. The Selection Committee rejected the first respondent/writ petitioner on the ground that the first respondent/writ petitioner neither belongs to Kulathur Village Panchayat nor its adjacent Panchayat and he belongs to Thalayadkikottai Panchayat, which is nearly 30



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kilometers away from Kulathur Panchayat. Therefore, the first respondent/writ petitioner has not satisfied the Rule 5(2) (ii) & (iii) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013.

8.In the aforesaid counter-affidavit, the appellant/third respondent has not placed any material to show that the other two applicants are eligible than the first respondent/writ petitioner and satisfy Rule 5(2) (ii) and (iii) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013.

9.It is contention of the appellant/third respondent that the first respondent/writ petitioner is not eligible for the post of Panchayat Secretary of Kulathur Village Panchayat on the ground that the first respondent/writ petitioner is not a resident of the same Village or adjacent Village. But the Writ Court has examined the said issue and found that as per Rule 5(2) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013, the person, who is residing in the adjoining Village situated within the same block, shall be appointed. In the present case on hand, there is no dispute that the first respondent/writ petitioner is residing within the said block. But he is residing in the adjoining Village, which according to the appellant/third



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respondent is far away 30 kms from the Village Panchayat. There is no other material placed to show that there is a distance provision for appointing the post of Secretary to the Village Panchayat. The condition imposed in the said Rule 5(2)(iii) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013, clearly states that if no qualified and suitable candidates residing in the Village Panchayat concerned for selection for appointment to the post, eligible candidate from the adjoining Village Panchayats within the same block shall be appointed. When that being so, the Writ Court has rightly come to the conclusion that the first respondent/writ petitioner is eligible for appointment to the post of Panchayat Secretary of Kulathur Village Panchayat. The appellant/third respondent failed to place the materials that the other applicants have been eligible for the aforesaid post. Therefore, the Writ Court has rightly considered that the petitioner is eligible for appearing for the interview and to consider his candidature for selection to the post of Secretary Village Panchayat.

10. In view of the above, this Court is not inclined to entertain the Writ Appeal as there is no error or illegality in the order passed by the Writ Court. Accordingly, this Writ Appeal is dismissed. We make it clear that the



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first respondent/writ petitioner is eligible as per Rule 5(2)(ii) & (iii) of the Tamil Nadu Panchayat Secretaries (Condition and Service) Rules, 2013, for participating in the interview. Therefore, it is for the appellant/third respondent and the respondents 2 & 3/respondents 1 & 2 to consider the petitioner for selection to the post of Panchayat Secretary, if otherwise eligible and the appellant/third respondent and the respondents 2 & 3/respondents 1 & 2 is also directed to complete the selection process at the earliest, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] & [L.V.G.,J.]
15.02.2023

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

- 1.The District Collector/Inspector of Panchayat,
Ramanathapuram District,
Ramanathapuram.
- 2.The Block Development Officer,
(Village Panchayat),
Nainar Kovil Union Office,
Ramanathapuram District.
- 3.The President,
Kulathur Village Panchayat,
Nainar Kovil Union,
Ramanathapuram District.



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D. KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

**ORDER MADE IN
W.A(MD)No.126 of 2023**

15.02.2023

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