



W.P.No.23274 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

W.P.No.23274 of 2011

and M.P.Nos.1 and 2 of 2011

M.Murali

...Petitioner

vs.

1. The District Collector,
Vellore District,
Vellore

2. The Block Development Officer,
Panchayat Union Office,
Alangayam,
Vellore District.

3. The President,
Vellakkuttai Village Panchayat,
Vellakkuttai,
Vaniyambadi Taluk,
Vellore District.

4. P.Achuthan

(Respondent 4 – Impleaded as per order dated 11.06.2024 in M.P.No.1 of 2012)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



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India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 27.07.2011 passed by the 1st respondent in his officer ref.:Na.Ka.BC1/4371/11 and the order dated 28.07.2011 passed by the 3rd respondent in her office ref.Na.Ka.No.Aa2/5003/2006, quash the same and direct the respondents to reinstate the petitioner in service with back wages and all service benefits.

For Petitioner : Mr.P.Mani

For Respondents

For R1 : Mr.S.Rajesh
Government Advocate

For R2 : Mr.Digvijaya Pandian
for Mr.V.Subbiah

For R3 : Mr.S.Y.Masood

For R4 : Mr.M.Devaraj

ORDER

The order dated 27.07.2011 passed by the 1st respondent in Na.Ka.No.BC1/4371/11 and the subsequent order dated 28.07.2011 passed by the 3rd respondent in Na.Ka.No.Aa2/5003/2006 are under challenge, and a direction is sought for reinstatement of the petitioner in service with back wages and all service benefits.



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2. The petitioner M.Murali son of Munirathinam states that he passed out 12th examination in May-2005 and registered his name in the employment office in Registration No.3555 of 2005. The 3rd respondent panchayat invited applications for the post of Panchayat Clerk and four persons including the petitioner applied for the said post.

3. The petitioner further submits that the decision of the 3rd respondent Panchayat to appoint the petitioner as panchayat clerk was forwarded to the 1st respondent District Collector through the 2nd respondent Block Development Officer. The 1st respondent District Collector in his office proceedings dated 09.06.2011, approved the decision of the 3rd respondent Village Panchayat and directed the 2nd respondent to issue appointment order through the 3rd respondent by following G.O.No.175, Rural Development Department dated 05.12.2006.

4. It is further submitted that the 2nd respondent Block Development Officer directed the 3rd respondent Village President to issue appointment order to the petitioner in his office proceedings dated 13.06.2011. The petitioner was appointed as panchayat clerk by the 3rd respondent Village President by appointment order dated 13.06.2011 and since then, he has



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been working as panchayat clerk.

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5. The 3rd respondent Village President issued the impugned order dated 28.07.2011 canceling the petitioner's appointment pursuant to the directions issued by the 1st respondent District Collector in his proceedings dated 27.07.2011. The impugned orders have been passed in violation of principles of natural justice. Hence this writ petition.

6. Heard Mr.P.Mani, learned counsel appearing for the petitioner, Mr.S.Rajesh, learned Government Advocate for the 1st respondent, Mr.M.Digvijaya Pandian, learned representing counsel for the 2nd respondent, Mr.S.Y.Masood, learned counsel for the 3rd respondent and Mr.M.Devaraj, learned counsel for the 4th respondent.

7. Mr.P.Mani, learned counsel appearing for the petitioner would submit that, as per G.O.No.175 dated 05.12.2006, the petitioner was duly appointed to the post of Panchayat Clerk after following all the formalities. Based on the complaint of the 4th respondent that he claimed to have worked as a part-time panchayat clerk in the 3rd respondent Village Panchayat, on the ground that one Achuthan has filed O.S.No.185 of 2006



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and thereafter, appeal is pending in A.S.No.37 of 2010 on the file of Sub Court, Vaniyambadi. As his appointment is valid and the impugned order was passed in utter violation of principles of natural justice. Hence this writ petition.

8. Mr.M.Digvijaya Pandian, learned representing counsel for the 2nd respondent would submit that one P.Achuthan working as a part time panchayat clerk in Vellakkuttai Panchayat for about 180 days. The suit and thereafter appeal, which were filed by the said Achuthan were dismissed. Suppressing the said details, the petitioner was appointed as panchayat clerk by the proceedings dated 13.06.2011. Therefore, there is no irregularity or impropriety in the impugned order. Till date, the appointment order of the Achuthan has not been cancelled.

9. It is the candid case of the petitioner that, he has passed out 12th standard and his registration number in the employment office is 3555 of 2005. When the applications were invited for the post of panchayat clerk, among the five petitioners, the petitioner was selected for the post of panchayat clerk, after conduction of interview and verification of the certificates.



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10. Meanwhile, the 4th respondent filed suit for permanent injunction against the President of Vellakuttai Village Panchayat and Block Development Officer of Alangayam Block stating that he was appointed as part time panchayat clerk of Vellakuttai panchayat by a resolution no.15 dated 24.02.2006 and he was appointed on 10.03.2006. Thereafter, some other person was elected as Panchayat President for the panchayat board on 15.10.2006. As he was not to be removed from service, he filed the said suit.

11. The original suit in O.S.No.186 of 2006 on the file of the Additional District Munsif Court, Vaniyambadi was dismissed on merits stating that the appointment is not valid and the suit is bad for non joinder of necessary parties. Against which, the 4th respondent herein preferred appeal in A.S.No.37 of 2010 on the file of Sub Court, Vaniyambadi and the Appeal was dismissed on 28.09.2011 and reached finality as on date.

12. Mr.M.Devaraj, learned counsel appearing for the 4th respondent would submit that the 4th respondent was duly appointed as part time panchayat clerk by order dated 10.03.2006 for about six months and he



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worked as panchayat clerk. Fearing that he may be terminated from the service, a suit was sought to be filed.

13. As per Section 83 of the Tamil Nadu Panchayat Act, 1994, the executive authority is the president of the Village Panchayat. He is empowered to appoint any person as per the rules. As per Section 84, the executive authority, namely the Village Panchayat President is empowered to carry out his duties and responsibilities, control all the officers and servants of the village panchayat, discharge the duties imposed and exercise all the powers conferred on him subject to the restrictions and conditions imposed by the Act. He is empowered to exercise the executive power for the purpose of carrying out the provisions of the Act. So as per Section 83, he is the appointing authority of the panchayat clerk.

14. As per G.O.No.175 dated 15.12.2006, the panchayat clerks who were under consolidated pay were brought under time scale of pay and besides that their duties and responsibilities were fixed.

15. As per the letter of Block Development Officer in Na.Ka.Aa6/1027/2011 dated 25.05.2011, a proposal was received from the Panchayat President of Vellakuttai Panchayat for the purpose of filling up



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the post of panchayat assistant. As per G.O.No.175 dated 05.12.2006, the panchayat president was permitted to issued appointment order as per the rules and regulations. Based on the same, on 13.06.2011, the petitioner was appointed as panchayat assistant vide Na.Ka.No.01/2011. In the said proceedings, it is mentioned in the reference details about the resolution of the Vellakuttai Panchayat No.5 dated 27.09.2010 and it has also been mentioned that Mr.Venkatesan incharge of Vellakuttai Panchayat was directed to hand over the charge to the petitioner herein. In pursuance to the order of the Vellakuttai Panchayat President and on the same day, the petitioner has taken charge of the post.

16. It appears that the 4th respondent by a letter dated 06.07.2011 addressed to the District Collector and based on same, Vellakuttai Panchayat President was ordered to cancel the appointment order, and based on the same, the President of Vellakuttai Panchayat has dismissed the appointment by proceedings dated 28.07.2011 in Na.Ka.Aa2/5003/2006.

17. The 4th respondent was appointed on 10.03.2006. Within six months, he filed a suit in O.S.No.186 of 2006 sought for permanent



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injunction and it was dismissed on 27.08.2010. The 4th respondent filed suit in the year 2006 and an Order of dismissal was passed on 27.08.2010 itself. His appeal was also dismissed on 28.09.2011. When his appeal was pending disposal, he had given an application to the Collector of Vellore District. As per Section 83 of the Act, the Village Panchayat President is the executive authority in the matters of appointment of panchayat clerk. When the petition was given by the 4th respondent, the 1st respondent had not even followed the principles of natural justice.

18. As regards the appointment of the petitioner to the post of panchayat clerk, Vellakkuttai Panchayat, the Panchayat President was permitted to appoint the panchayat clerk as per the prevailing rules and regulations in Na.Ka.Aa6/1027/2011 dated 13.06.2011 of Block Development Officer of Alangayam Block.

19. Mr.M.Digvijaya Pandian, learned representing counsel for the 2nd respondent submits that the file relating to the appointment of the petitioner is with the 1st respondent namely the Collector, Vellore District.

20. On a careful perusal of the impugned order dated 28.07.2011



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passed by the President of Vellakuttai Panchayat, it appears that the said Order was issued without following the principles of natural justice.

Therefore, it is liable to be quashed and stands quashed, and a direction is given to the 3rd respondent to comply with the principles of natural justice by issuing a show cause notice, after getting an explanation from him to proceed with the matter further.

21. With these observations, this writ petition stands disposed of. The said exercise shall be completed within a period of six [6] weeks from the date of receipt of a copy of this order. There is no order as to costs. Consequently, connected miscellaneous petition, if any stands closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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R.KALAIMATHI, J.

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To

1. The District Collector,
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3. The President,
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