



W.P.No.12797 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2024

Coram:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.No.12797 of 2018

and

W.M.P.Nos.15019 & 15020 of 2018

L.Rajendran

.. Petitioner

/versus/

1.The District Collector,
Salem District, Salem.

2.The P.A. to the District Collector
(Panchayat Development)
Collectorate Building,
Salem & District.

3.The Block Development Officer,
Pethanaickenpalayam Panchayat Union,
Salem District.

4.P.Subramani
Panchayat Secretary,
C.K.Malai Vadakku Nadu Village Panchayat,
Pethanaickenpalayam Union,
Salem District.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 3rd respondent in Na.Ka.No.831/2017/Thi2, dated 31.10.2017 and the subsequent impugned notification issued by the 3rd respondent in Na.Ka.No..../2018 dated 26.03.2018 and to quash the same and consequently directing the respondents 1 to 3 to declare the vacancy to the post of Panchayat Secretary in C.K.Malai Vadakku Nadu Village Panchayat and to fill up the same by direct recruitment by considering the petitioner based on merit in the selection.

For Petitioner :M/s M.Kaviya for
Mr.S.Nedunchezhiyan

For R1 to R3 :Mrs.L.Sangamithirai,
Spl.Government Pleader

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ORDER

Heard the learned counsel appearing for petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3. In spite of service of notice, there is no representation by the fourth respondent.



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2. The learned counsel appearing for the petitioner submits that the petitioner is the permanent resident of Navampattu, Kattuvalavu Village in C.K.Malai Vadakku Nadu, Pethanaickenpalayam Taluk, Salem District. She passed 10th standard and she registered her name in the Employment Exchange. The vacancy to the post of Panchayat Secretary of C.K.Malai Vadakku Nadu Village Panchayat is lying vacant from 30th December 2023 due to demise of incumbent Thiru.Gunasekaran. Thereafter, the petitioner submitted a representation to the respondents seeking for appointment to the post of Panchayat Secretary. But, it was informed that it will be considered for appointment as and when the post is filled up by direct recruitment through Employment Exchange.

3. In the said circumstances, one Thriu.P.Rajan, Panchayat Secretary of Therkku Nadu Village Panchayat was posted on deputation/additional charge of Vadakku Nadu Village Panchayat. Subsequently, one Thiru.P.Subramani (i.e) the fourth respondent herein, who is working Panchayat Secretary in MelNadu Panchayat, has been transferred and posted in Vadakku Nadu Village Panchayat as per the proceedings of the third respondent dated 31.10.2017. The order of the



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third respondent is that the said P.Subramani was originally posted as additional charge of Vadakku Nadu Village Panchayat and subsequently, he has been transferred to Vadakku Nadu Village Panchayat on regular basis.

4. The learned counsel appearing for the petitioner submits that after transferring the fourth respondent to Vadakku Nadu Village Panchayat, the third respondent is taking steps to fill up the resultant vacancy in MelNadu Village Panchayat by direct recruitment by issuing Notification dated 26.03.2018. The learned counsel also submits that the order of the third respondent transferring the fourth respondent to Vadakku Nadu Village Panchayat for the post of Panchayat Secretary and notifying the vacancy in MelNadu Village Panchayat to be filled up by direct recruitment is ex-facie illegal, arbitrary and the same is liable to be quashed.

5. On behalf of the third respondent, a counter-affidavit has been filed. Though several averments made in the said counter affidavit, during the course of hearing, the learned Special Government Pleader



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appearing for the respondents 1 to 3, on instructions, submits that the third respondent has sent a proposal to the first respondent to fill up the vacancy of the post of Panchayat Secretary in Vadakku Nadu Village Panchayat on regular basis and the said proposal is pending with the first respondent. The learned counsel also submits that now the issue is pending before the first respondent for issuing notification to fill up the vacancy of the post of Panchayat Secretary of Vakkau Nadu Village Panchayat, on regular basis.

6. Having heard the submissions of the learned respective counsel, it appears that the fourth respondent was appointed by the third respondent as Panchayat Secretary of Vadakku Nadu Village Panchayat on transfer and the allegation of the petitioner is that the third respondent filled the vacancy of Panchayat Secretary Post of Vadakku Nadu Village Panchayat on permanent basis by transferring the fourth respondent and taking steps to fill up the resultant vacancy of the post of Panchayat Secretary in Melnadu Panchayat by issuing notification by direct recruitment.



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7. The petitioner's case is that the vacancy arose to the post of Panchayat Secretary of Vadakku Nadu Village has to be filled up by issuing notification by direct recruitment. Admittedly, the learned Special Government Pleader appearing for the respondents 1 to 3 submits that to fill up the vacancy of Panchayat Secretary post of Vadakku Nadu Village Panchayat on permanent basis by direct recruitment, the third respondent has sent a proposal to the first respondent and the same is pending.

8. Considering all these facts and also taking note of the fact that the vacancy of Panchayat Secretary of Vadakku Nadu Village Panchayat is lying vacant from 30.12.2013 i.e. for the last 10 years and in our view, filling that vacancy for the last 10 years by deputation or on transfer is illegal and arbitrary. Due to the action of the respondents 1 to 3 in not filling up the vacancy on permanent basis for the last 10 years, definitely it would cause irreparable loss and hardship to the aspirants, who are eligible candidates in their Panchayat limit.

9. Accordingly, in our considered view, it is appropriate to direct



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the first respondent to issue notification forthwith to fill up the vacancy of Panchayat Secretary Post of Vadakku Nadu Village Panchayat on permanent basis, to meet the interest of justice.

10. Accordingly, this Writ Petition is allowed.

11. Consequently, connected Miscellaneous Petitions are closed.

12. There shall be no order as to costs.

22.03.2024

Index:yes/no
Speaking order/non speaking order
Neutral citation:yes/no
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To:

7/9

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BATTU DEVANAND, J.

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