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W.P.No.13987 of 20 --

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.04.2024

PRONOUNCED ON : 03.06.2024

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

Writ Petition No.13987 of 2018

Sadayamuthu

..Petitioner

vs.

- 1.The State rep. by
The District Collector,
O/o.The Collectorate Office,
Cuddalore District.
- 2.The Revenue Tahsildar,
O/o.Revenue Tahsildar, Veppur Taluk,
Cuddalore District.
- 3.Rathishkumar

... Respondents

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 pertaining to the appointment order issued for Village Assistant insofar as Elangiyanur Village is concerned, vide proceedings No.Na.Ka.A3/2450/2017, order dated 12.01.2018 passed by the second respondent and quash the same and consequently direct the respondents 1 & 2 to provide appointment to the petitioner for the post of Village Assistant.



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For Petitioner : Mr.P.Thirumoorthy
For Respondents : Mr.L.S.M.Hasan Fizal, AGP for R1 & 2
Mr.G.Surya Narayanan for R3

ORDER

This Writ Petition has been filed challenging the appointment order issued by the second respondent to the third respondent to the post of Village Assistant vide proceedings No.Na.Ka.A3/2450/2017, dated 12.01.2020.

2. The respondents 1 and 2 and the third respondent filed their counter affidavit.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel for the third respondent and perused the materials available on record.

4. The learned counsel for the petitioner submits that the petitioner



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studied 10th standard in Government Higher Secondary School at Nallur in the year 1999 and did not pass out the same. He had registered and renewed his educational qualifications with the Employment Exchange at Cuddalore District. The petitioner is a native of Elangiyanur Village in Cuddalore District and he has been living there with his family for the past several years. The second respondent issued an advertisement in the newspaper inviting applications to the post of Village Assistant on 09.12.2017. As per the notification, the applicants should have educational qualification from 5th standard to 10th standard pass. Thereafter, they issued correction notice to the said notification stating that the candidate should possess minimum qualification of 5th pass to 10th fail.

5. The learned counsel for the petitioner further submits that the petitioner submitted his application and he attended the interview on 29.12.2017. Though the petitioner performed well in the interview, the official respondents selected the third respondent to the post of Village Assistant.

6. The learned counsel for the petitioner submits that the respondent is



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residing at Cheppakkam Village and the petitioner is a native of Elangiyanur Village, where the post is notified. The learned counsel would submit that the State Government issued G.O.Ms.No.521 Revenue (Ser. VII(2)) Department dated 17.06.1998 notifying the Tamil Nadu Village Assistant Special Rules. The Official respondents ought to have scrupulously followed the Special Rules while making appointment to the post of Village Assistant. One of the qualifications prescribed for appointment to the post of Village Assistant is that the person appointed to the post shall belong to the Village to which he is appointed or the adjoining Village if no suitable candidate is available from that Village. In the present case, the petitioner belongs to the Village to which the post is notified and the third respondent is a resident of Chepaukam Village. As such, the learned counsel would submit that the official respondents have committed a grievous error by selecting third respondent as Village Assistant of Elangiyanur Village as and when suitable candidate like the petitioner is available from that Village.

7. On behalf of the respondents 1 and 2 a counter affidavit has been filed, wherein it is stated that the interview was conducted on 29.12.2017,



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wherein oral and written tests were conducted, but the petitioner did not perform well and scored less marks. It is also stated in the counter affidavit that the petitioner was unable to read a simple word in Tamil and had several errors in reading at the time of interview. It is also stated in the counter that the third respondent was selected only on merits and the petitioner failed in interview.

8. The learned Additional Government Pleader appearing for the respondents 1 and 2 contends that the process of recruitment of Village Assistant was conducted based on merits and according to the norms and procedures prescribed by the Government and as such, no interference is required in to the appointment order issued to the third respondent.

9. The third respondent also filed his counter affidavit. Basing on the averments in the counter affidavit, the learned counsel appearing for the third respondent would submit that the Village of the third respondent is very nearer to Elangiyanur Village, which is in the same Firka and Taluk.

10. The learned counsel submits that unless a person is appointed, the question of saying that posting to a Village does not arise by participating in



the selection process as interviews were conducted for various Villages.

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11. The learned counsel further submits that the third respondent is having requisite qualifications and he is more eligible than the petitioner for the post of Village Assistant and he passed the written examination and declared successful in the oral interview also. He further submits that the petitioner has not cleared the written examination and oral interview and therefore he cannot challenge the selection process as he is not an eligible candidate.

12. The learned counsel for the third respondent has placed reliance on the order dated 6th January 2020 in Writ Petition No.19520 of 2014 of the Telangana High Court and contended that this Court cannot sit in an appeal over the Selection Committee. The relevant paragraph of the said order is extracted hereunder:

“Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that when once the selection committee found that the petitioner is not suitable for the post of Deputy Director (General), this Court cannot sit in an appeal over the selection committee and give a direction to the respondent to consider the case of the



petitioner for appointment. There are no merits in the writ petition and the same is liable to be dismissed. ”

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Relying on the said judgment, the learned counsel for the third respondent sought to dismiss this Writ Petition.

13. Having considered the submissions of the respective counsels and upon perusal of the materials available on record, this Court by order dated 12.03.2024, directed the first respondent to produce the original records pertaining to the selection procedure. On 26.03.2024, the learned Additional Government Pleader placed the original records pertaining to the selection procedure in question in this Writ Petition before this Court.

14. In the counter filed by the official respondents, it is stated that the petitioner is treated as not suitable for the post of Village Assistant in view of the fact that he could not read a single word in Tamil. This Court is unable to satisfy that contention of the official respondents in view of the fact that though the petitioner failed in Tamil language examination in 10th standard, he passed Maths, Science and Social Science in Tamil medium only.



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15. In my view without basic knowledge in Tamil language, which is the mother tongue of the petitioner, he could not pass Maths, Science and Social Science subjects. As such, there is no truth in the contention of the respondent Nos.1 and 2.

16. This Court is unable to agree with the contention of the official respondents in view of the fact that the petitioner passed Mathematics, Science and Social Studies subjects in Tamil medium.

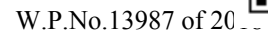
17. On perusal of the original records produced by the learned Government Pleader before this Court in the presence of both side counsels, it is found that the answer sheet of the petitioner is not found in the records. As per the records with regard to the reading ability of the petitioner and the third respondent, it is found in the records that the petitioner and the third respondent are graded as “B” in the final comparative chart, but it is noted that the petitioner falls under “Grade B” and the third respondent falls under “Grade C”.



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18. It is an undisputed fact that as per the selection procedure “Grade B” is meritorious than “Grade C”. As such, the contention of the official respondents in the counter that the petitioner was unable to read a simple word in Tamil is far from the truth and this contention was raised by the official respondents only to do undue favour to the third respondent, who was graded as “C” with regard to the reading ability as mentioned in the final comparative charge sheet available in the original records.

19. Besides all these things, there is no proper answer from the official respondents with respect to the non-availability of the answer sheet of the petitioner in the records. There is substantial force in the contention of the learned counsel for the petitioner that the petitioner is fully qualified and eligible candidate to be considered for appointment to the Village Assistant post for the vacancy notified in the Village, where the petitioner is residing and as and when suitable candidate is available in the said Village, appointing the third respondent, who is not a resident of that Village is contrary to the Tamil Nadu Village Assistant Special Rules issued vide G.O.Ms.No.521, dated 17.06.1998.



21. As this Court holding that the appointment of the third respondent was made unfairly and arbitrarily by the second respondent, in the considered opinion of this Court that the order dated 06.01.2020 in Writ Petition No.19520 of 2014 of the Telangana High Court, which is relied on by the learned counsel for the third respondent, is not applicable to the facts and circumstances of the present case.



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22. For the reasons stated above, this Writ Petition is allowed with the

following directions:

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i) The proceedings issued by the second respondent in Na.Ka.A3/2450/2017 dated 12.01.2018 is hereby quashed.

ii) The respondents 1 and 2 shall appoint the petitioner for the post of Village Assistant of Elangiyanur Village, Veppur Taluk in Cuddalore District within a period of four weeks from the date of receipt of a copy of this order.

No costs.

03.06.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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To

1.The District Collector,
O/o.The Collectorate Office,
Cuddalore District.

2.The Revenue Tahsildar,
O/o.Revenue Tahsildar, Veppur Taluk,
Cuddalore District.



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BATTU DEVANAND.J.,
pvs

Pre-delivery order in

W.P.No.13987 of 2018

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