



W.P.Nos.18580 and 21291 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.18580 and 21291 of 2023
and W.M.P.Nos.17818 & 20690 of 2023

V.Murugan

**.. Petitioner in
W.P.No.18580 of 2023**

M.Prakash

**.. Petitioner in
W.P.No.21291 of 2023**

Vs.

1.The Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George, Chennai – 600 009.

2.The Director
Rural Development & Panchayat Raj Department
Panagal Building, Saidapet, Chennai – 600 015.

3.The District Collector
Villupuram District, Villupuram – 605 602.

4.The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, Park Town, Chennai – 600 003.

**.. Respondents in
W.P.No.18580 of 2023**



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1.The Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George, Chennai – 600 009.

2.The Director
Rural Development & Panchayat Raj Department
Panagal Building, Saidapet, Chennai – 600 015.

3.The District Collector
Kallakurichi District, Kallakurichi – 605 202.

4.The Secretary
Tamil Nadu Public Service Commission
TNPSC Road, Park Town, Chennai – 600 003.

.. **Respondents in
W.P.No.21291 of 2023**

Prayer in W.P.No.18580 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the Secretary, Tamil Nadu Public Service Commission, the 4th respondent herein to appoint the petitioner by considering the order dated 22.12.2015 passed by this Court in W.P.No.4136 of 2015 as the petitioner has already selected in the written examination conducted by the Tamil Nadu Government for the post notified in the notification G.O.(Ms) No.105 dated 09.11.2012 and the notification G.O.(Ms) No.65 dated 03.07.2013.

Prayer in W.P.No.21291 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the



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Secretary, Tamil Nadu Public Service Commission, the 4th respondent herein to appoint the petitioner by considering the order dated 22.12.2015 passed by this Court in W.P.No.4144 of 2015 as the petitioner has already selected in the written examination conducted by the Tamil Nadu Government for the post notified in the notification G.O.(Ms) No.105 dated 09.11.2012 and the notification G.O.(Ms) No.65 dated 03.07.2013.

In both the W.P.'s:-

For the Petitioner : Dr.R.Sampath Kumar

For the Respondents : Mr.P.Ganesan, GA
for R1
Mr.S.Sivasubramani for R2

COMMON ORDER

These Writ Petitions are filed directing the Secretary, Tamil Nadu Public Service Commission - the 4th respondent to appoint the petitioners by considering the order dated 22.12.2015 passed by this Court in W.P.Nos.4136 and 4144 of 2015 as the petitioners have already been selected in the written examination conducted by the Government of Tamil Nadu for the post notified under G.O.105 dated 09.11.2012 and notification



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in G.O.No.65 dated 03.07.2013.

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2. The Writ Petitions were resisted by the respondents by filing a counter affidavit.

3. According to the learned counsel appearing on behalf of the petitioners, the petitioners participated in the selection process and were successful in the selection. Even thereafter the petitioners were not appointed, they approached this Court in W.P.Nos.4136 and 4144 of 2015. This Court had considered the case of the petitioner and that of the respondents and considering the special circumstances in which the petitioners had completed the Diploma in Civil Engineering during April 1991 and have undergone one year apprenticeship training in Civil Engineering and having been appointed through employment exchange in the year 2013 and thereafter the services were terminated in the year 2014, allowed the Writ Petition on the following terms:-

“13. In view of my above finding, the writ petition is allowed on the following terms –



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(a) the fifth respondent viz. District Employment exchange, Villupuram is directed to restore the seniority of the petitioner and

(b) the respondents are directed to consider the name of the petitioner for appointment in existing and future vacancies by giving necessary age relaxation, if he is otherwise qualified. No costs”

4. Thus, it can be very clear that the respondents were directed to restore their seniority in the employment exchange of Villupuram, secondly, they were directed to consider the appointment of the petitioners, in the existing or a future vacancy by giving necessary age relaxation, if they are otherwise qualified. Therefore, it can be seen that as per the said order, the respondents ought to have restored the seniority and appointed the petitioners in the post of Overseer in the existing or a future vacancy.

5. The order was not immediately complied with, since the respondents seem to have filed review petitions. However, the said review petitions were kept pending. The petitioners also filed further Writ Petitions in W.P.Nos.35 and 135 of 2021 and this Court directed consideration of representation of the petitioner dated 23.11.2020.



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6. Be that as it may, the rights of the parties have been determined *inter se* by the aforesaid order of this Court. Now the reason for non-compliance is stated in paragraph No.5 of the counter affidavit filed by the respondents in W.P.No.18580 of 2023. The said paragraph 5 is extracted hereunder:-

“5. It is submitted that for the para 5, in respect of Villupuram District 37 vacancies in the cadre of Overseer/Junior Draughting Officers are already filled in the year 2010 – 2011 through Employment Exchange by Direct Recruitment by following the “Employment Exchange Seniority-cum-Roaster” by calling for the list of names in the “Turn No.1 to 37” from the employment exchange and the eligible candidates lists to be called for from Turn No.38 for the future vacancies. While calling a list from Turn No.38, the name of the petitioner was not found in the employment list due to change of “Employment seniority-cum-roaster(Turn No.)”, and there is a hurdle to implement the Judgment of Hon'ble High Court in W.P.No.4136 of 2015. And the above recruitment process are cancelled due to administrative reasons.”

7. Therefore, if there is some hurdle to implement the orders of this Court, the respondents will not be justified in keeping quiet and treating the orders of the Court as a piece of paper. It has to be implemented in letter and



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spirit. Admittedly, the respondents filed review petitions, expressing their difficulty and ultimately the self same reason was considered in detail in the review petitions i.e., Rev.Aplw.Nos.61 to 72 of 2022 and by an order dated 09.02.2023, the said review petitions were dismissed. In that view of the matter, it is the lookout of the respondents as to how and in what manner they will implement the orders of this Court. They cannot sit on an appeal over the orders of this Court, despite of a positive direction.

8. In view thereof, the Writ Petitions are allowed on the following terms:-

(i) The respondents are directed to consider the case of the petitioners for appointment to the post of Overseer and accordingly appoint them to the said post within a period of 12 weeks from the date of receipt of a copy of this order;

(ii) No costs. Consequently, the connected miscellaneous petitions are closed.

24.04.2024

Index : Yes



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Neutral Citation : Yes

Speaking order : Yes

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To

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D.BHARATHA CHAKRAVARTHY, J.

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