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W.P.No. 20768 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 20768 of 2017
& WMP.No.21599 of 2017

M.Kirubanandhan

... Petitioner

Vs.

1.The Tahsildar,
Virudhachalam Taluk,
Virudhachalam, Cuddalore District.

2.Sumathi

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.Aa4/3602/2017, dated 28.07.2017 in so far relates to Serial No.6 and quash the same and consequently direct the 1st respondent to consider the petitioner's application and appoint the petitioner in the post of Village Assistant in Ko.Adhanur Village, Virudhachalam Taluk, Cuddalore District.

For Petitioner	: Mr. C.Prakasam
For R1	: Ms.Akila Rajendran, Government Advocate
For R2	: notice served



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ORDER

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This Writ Petition has been filed against the order dated 28.07.2017 appointing the second respondent as the Village Assistant in K.O.Adhanur Village, Virudhachalam Taluk, Cuddalore District.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the first respondent and perused the materials available on record.

3.The case of the petitioner is that the first respondent called for applications for appointment to the post of Village Assistant in the village of Ko.Adhanur and 8 other Villages in Virudhachalam Taluk. Thereafter, the petitioner made an application to the said post. As per the said notification, the applicant should have an educational qualification of passing the fifth standard and failing the tenth standard. As the petitioner possessed all the requisite qualification, she was called for interview before the first respondent on 14.07.2017. Though the petitioner performed well in the interview, the first respondent appointed the second respondent vide proceedings dated 28.07.2017, even though the second respondent had not at all appeared in the interview. Further, it is also submitted that the second respondent was 30 years old at the relevant time and she had passed +2 and was having teacher training certificate. Against the illegal appointment made by the first respondent to the second



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respondent, the petitioner filed this Writ Petition.

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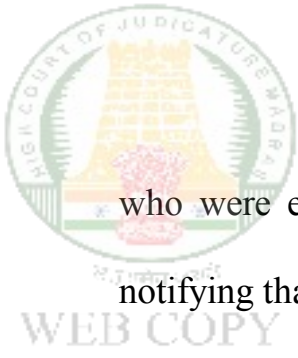
4.A counter affidavit has been filed on behalf of the first respondent, wherein it is stated that 24 candidates attended the interview for the post of Village Assistant in Ko.Aadhanur Village. Out of 24 candidates, the second respondent got 35.5 marks out of 50 marks in the interview and hence, she was selected and appointment orders were issued. It is further averred in the counter affidavit that after appointment of the second respondent, the certificates of the second respondent were sent to the concerned Head Master for verification and it was found that the certificates produced by the second respondent were fake. Accordingly, the second respondent's appointment was cancelled vide proceedings dated 11.01.2018. It is further stated in the counter affidavit that though the appointment of the second respondent was cancelled, the petitioner could not be appointed in the said vacancy, since several candidates have obtained more marks than the petitioner.

5.The learned counsel for the petitioner submits that though 24 candidates attended the interview and the second respondent was selected, only the petitioner has approached this Court by filing this Writ Petition against the illegal appointment of the second respondent. The learned counsel further contends that if the respondent could not appoint one of the unsuccessful candidate who attended the interview as



per their procedure, the first respondent ought to have notified this vacancy immediately after the cancellation of the appointment of the second respondent. Due to the non-notifying of the said vacancy immediately, the petitioner and all other eligible candidates in that village suffered a lot and most of them now crossed the prescribed age limit for the post of Village Assistant. The loss caused to the petitioner and other candidates is irreparable and the first respondent is responsible for the same.

6.This Court finds substantial force in the contention of the learned counsel appearing for the petitioner. If it is the stand of the first respondent that one of the unsuccessful candidate could not be appointed in the place of the second respondent after cancellation of her appointment, the first respondent ought to have notified the vacancy immediately and filled the vacancy on permanent basis. Keeping that post of Village Assistant of that particular village as vacant for the last 6 ½ years, would definitely cause irreparable loss to the petitioner and other eligible candidates at the relevant point of time. Without any fault on the part of the petitioner and other eligible candidates and because of the lethargic attitude of the first respondent, the vacancy is not filled till now. Considering the entire issue comprehensively, this Court holds that the first respondent failed to discharge his duty as per the procedure under law. For his carelessness, number of unemployed persons of that Village and



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who were eligible for that post might have become ineligible due to the delay in notifying that vacancy.

7.Under these circumstances, to meet the interest of justice, this Court intends to direct the first respondent to notify the vacancy of Village Assistant in Ko.Adhanur Village and permit the petitioner and other unsuccessful candidates, who participated in the interview held on 14.07.2017 along with other eligible candidates and fill the vacancy of Village Assistant of Ko.Adhanur Village within a period of eight weeks from the date of receipt of a copy of the order.

8.Accordingly, this Writ Petition is disposed of with a direction to the first respondent to notify the vacancy of the post of Village Assistant in Ko.Adhanur Village and permit the petitioner and other unsuccessful candidates, who attended the interview held on 14.07.2017 along with other eligible candidates and fill the vacancy in accordance with law within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

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Index :Yes/No

Neutral Citation :Yes/No

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BATTU DEVANAND, J.

Tsg

To

The Tahsildar,
Virudhachalam Taluk,
Virudhachalam, Cuddalore District.

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25.03.2024