



W.P.(MD).No.11879 of 2021

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.11879 of 2021

R.Kannan

...Petitioner

Vs.

1.The District Collector,
Tenkasi District, Tenkasi-627 811.

2.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Perumalpuram Palayamkottai,
Tirunelveli District.

3.The Executive Officer,
Sivagiri Town Panchayat,
Sivagiri-627 757,
Tenkasi District

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pass orders for granting promotion to the petitioner to the post of Driver based on seniority and eligibility, in accordance with Regular Panel issued by the third respondent in Na.Ka.No.195(1) /2019 dt 08.04.2020, with all



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consequential and other attendant benefits, within a time frame to be fixed by this Court.

For Petitioner : Mr.Sylendra Babu,
for Mr.G.Sankaran

For R-1 & R-2 : Mr.S.Satheesh,
Government Advocate

For R-3 : Mr.R.Ragavendran

ORDER

Heard Mr.Sylendra Babu, learned counsel appearing for the petitioner, Mr.C.Satheesh, learned Government Advocate appearing for respondent Nos.1 and 2 and Mr.R.Ragavendran, learned counsel appearing for the third respondent.

2. The present writ petition has been filed seeking direction to the respondents to pass orders for granting promotion to the petitioner to the post of Driver based on seniority and eligibility, in accordance with Regular Panel issued by the third respondent in Na.Ka.No.195(1) /2019 dt 08.04.2020, with



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all consequential and other attendant benefits, within a time frame to be fixed by this Court.

3. The petitioner was initially appointed as 'Watchman' in the Town Panchayat i.e., the third respondent on consolidated pay vide proceedings in Na.Ka.No.72/2001/A1, dated 31.10.2001 through Employment Exchange. Later, his salary was enhanced in the year 2003 vide proceedings of the third respondent in Mu.Mu.No.475/03. dated 11.11.2003. The Government issued Order in G.O.(Ms).No.60, Rural Development and Panchayat Raj Department, bringing the consolidated pay employees appointed in Town Panchayats into regular establishment with time scale of pay with effect from 01.06.2006. Accordingly, the petitioner's services came to be regularized with time scale of pay with effect from 01.06.2006 vide proceedings of the third respondent in Na.Ka.No.180/06, dated 29.06.2006. On completion of ten years of service in the post of Watchman, he was granted with Selection Grade vide proceedings of the third respondent dated 27.05.2006. Since the petitioner possessed heavy Motor vehicle license, the requisite qualification to be promoted to the post of Driver and since there had been a vacancy to the post of Driver in the third



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respondent / Town Panchayat, the petitioner made an application on 06.12.2019 seeking promotion to the post of Driver citing his eligibility and seniority. The Government had issued orders in G.O.(Ms).No.37, MAWS Department, dated 01.02.2011, amending the earlier Government Orders by conferring powers on the Executive Officer of the Town Panchayat to fill up the post of Driver by giving promotion by drawing list of eligible candidates working in the category of Non provincialized last grade servant in the Town Panchayat. However, the said exercise was not followed by the third respondent by drawing a Panel and promoting the petitioner to the post of Driver in the existing vacancy in accordance with the Government Order in G.O.(Ms).No.37, MAWS Department, dated 01.02.2011. Hence, the petitioner made a representation to the third respondent on 06.12.2019 in this regard.

4. Following this, the third respondent drew a Temporary Panel with the names of eligible persons for promotion to the post of Driver vide proceedings dated 03.01.2020, wherein, the petitioner's name came to be included. Later, the third respondent further issued regular panel for promotion to the post of Driver vide proceedings dated 08.04.2020, in which the petitioner's name was



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also included. However, no further orders have been passed by the third respondent till date for granting promotion in terms of the Panel dated 08.04.2020. Hence, this Writ Petition came to be filed.

5. Mr.Sylendra Babu, learned counsel for the writ petitioner submitted that even now there is a vacancy in the third respondent Panchayat and pressed for allowing this Writ Petition.

6. Mr.C.Satheesh, learned Government Advocate for respondent Nos.1 and 2 submitted that the post of Tractor Driver is a non-provincialized service and the unit for appointment is the respective Town Panchayat. Hence, the third respondent had already initiated the process of filling the post during the end of 2019, however, the same could not be completed due to Covid pandemic and Election Code in the eve of Election State Assembly Election. In the meanwhile, this Writ Petition came to be filed. All the non- provincialized employees having required qualification and eligible for promotion as Tractor Driver shall participate in the same. However, the selection shall be based on the eligibility along with the merit and suitability to the post among the



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contesting candidates. The petitioner shall participate in the process of recruitment for Driver post and prove his suitability for the same.

7. In view of the rival submissions, especially, the submission of the learned Government Advocate, I understand that the said selection process has been postponed only due to the pandemic situation during 2019 and the prevalent Election Code at that point of time in the eve of State Assembly Election. Now that the pandemic is over and even the State Assembly Election is over, there won't be any impediment for the third respondent to initiate the selection process.

8. In view of the same, this Court hereby direct the third respondent to initiate the selection process for the post of Driver in the third respondent Panchayat based on seniority and eligibility in accordance with the regular panel issued by the third respondent in Na.Ka.No.195(1)/2019 dated 08.04.2020 and pass appropriate appointment order in favour of the petitioner, if he participates in the said selection process and if he is otherwise qualified.



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9. Accordingly, this Writ Petition stands **disposed of**. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
TSG

To

1.The District Collector,
Tenkasi District, Tenkasi-627 811.

2.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Perumalpuram Palayamkottai,
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L.VICTORIA GOWRI, J.

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