



W.P.(MD)No.25577 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.25577 of 2022

D.Diravidamani

... Petitioner

Vs

1.The District Collector
Virudhungan District
Virudhunagar

2.The Block Development Officer (Village Panchayat)
Vembakottai Panchayat Union
Vembakottai
Virudhunagar District

3.The Block Development Officer (Village Panchayat)/
Rajapalayam Panchayat Union
Virudhunagar District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in connection with the impugned order passed by him in his proceedings in Na.Ka.No.14980/2019/R2 dated 23.08.2022 and quash the same as illegal and arbitrary and consequently directing the first respondent to appoint him in the post of Panchayat Secretary in any available vacancy of the Rajapalayam Panchayat Union and to include the petitioner's name in the panel



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for appointment to the post of Junior Assistant with effect from 2000 ie. on par with my batchmates within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The instant writ petition has been filed by a Bill Collector working in Alangulam Panchayat challenging the order passed by the District Collector, Virudhunagar on 23.08.2022 wherein his request for appointment in the post of Panchayat Secretary in the available vacancy of Rajapalayam Panchayat Union has been rejected.

2.According to the learned counsel appearing for the writ petitioner, he was originally appointed as a full time Panchayat Clerk by way of proceedings of the Block Development Officer (Village Panchayat), Rajapalayam dated 30.08.2000. Later, he was removed from service and he had challenged the said order of removal by filing W.P(MD).No.5172 of 2005. The said writ petition was finally disposed of on 27.10.2005 directing the writ petitioner to approach the District Collector by way of filing an appeal. The said appeal was rejected by the District Collector on 07.12.2005.



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3.The petitioner herein has sent several representation to consider his appointment as Panchayat Secretary in view of the fact that the post of Panchayat Clerk has been redesignated as Panchayat Secretary and he has sent representations on 02.05.2019 and 17.11.2021. Since the said representations were not considered, the petitioner has filed W.P(MD).No.2916 of 2022 seeking a mandamus to appoint him as Panchayat Secretary. The said writ petition was dismissed by this Court on 14.02.2022 with an observation that the petitioner's request could be considered as per the rules and whenever an administrative decision is taken to fill up vacant post. Based upon the said order of this Court, the petitioner again approached the office of the District Collector by way of representation dated 17.08.2022. The said representation has been rejected under the impugned order dated 23.08.2022 on the ground that the petitioner's request for appointment as Panchayat Secretary has already been rejected by the office of the District Collector on 07.12.2005 and already the High Court in WP(MD).No.2916 of 2022 by an order dated 14.02.2022 has rejected the request of the petitioner. This order is put to challenge in the present writ petition.

4.According to the learned counsel appearing for the writ petitioner, his original appointment itself is in the post of Panchayat Clerk which is now redesignated as Panchayat Secretary. The other Panchayat Clerks who were



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appointed along with the writ petitioner are already working as Panchayat Secretaries on being redesignated. Therefore, the question of permitting him or appointing him afresh to the post of Panchayat Secretary does not arise. He had further contended that the petitioner's request for being appointed as a Panchayat Secretary has been misunderstood by the Panchayat as if he is seeking fresh appointment. The rejection on the part of the District Collector on 07.12.2005 is only based upon the fact that the petitioner was provided with alternative employment as part time Panchayat Clerk and Bill Collector by way of proceedings dated 13.09.2005. These two proceedings will not take away the right of the writ petitioner to seek posting as Panchayat Secretary. Hence, he prayed for setting aside the order impugned in the writ petition and to appoint the petitioner as a Panchayat Secretary in the available vacancy in Rajapalayam Union.

5.Per contra, the learned Special Government Pleader appearing for the respondents had contended that though the petitioner was originally appointed as a full time Panchayat Clerk, he was removed from service by an order dated 04.05.2005 by proceedings of the President of concerned Panchayat. The said removal was not set aside by this Court and the petitioner was directed to approach the District Collector by way of filing an appeal. The District Collector has rejected the appeal on 07.12.2005. The petitioner has not chosen to



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challenge the same and therefore, any appointment prior to 17.08.2005 as Panchayat Clerk is lost.

6.The learned Special Government Pleader has further contended that the petitioner has accepted the appointment made by the District Collector on 17.08.2005 as a part time Panchayat Clerk and also Bill Collector on 13.09.2005. Therefore, at this length of time, the question of redesignated the petitioner as Panchayat Secretary would not arise. He relied upon Rule 3 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, and contended that the post of Village Panchayat Secretary can be filled up only through direct recruitment and therefore, unless the petitioner participates in the selection process, the question of considering the petitioner for appointment to the post of Village Secretary would not arise.

7.I have considered the submissions made on either side and perused the material records.

8.As rightly pointed out by the learned Special Government Pleader appearing for the respondents, the petitioner was removed from the post of Panchayat Clerk and his removal was not set aside by this Court. The appeal filed by the writ petitioner was also dismissed by the District Collector on 07.12.2005. The said order has attained finality. The petitioner has voluntarily chosen to accept the order of the District Collector dated 17.08.2005 wherein he was appointed as a part time clerk. The petitioner has also accepted the order



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by the District Collector dated 13.09.2005 wherein he was appointed as Bill Collector.

9.It is pertinent to point out that the post of Bill Collector is not a sanctioned post and therefore, it is clear that the petitioner is working in an ex-cadre post. The petitioner to get himself appointed as Panchayat Secretary has to be appointed only as per Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013.

10.In view of the above said deliberations, this Court does not find any error in the order passed by the District Collector, Virudhunagar District. Accordingly, this Writ Petition stands dismissed. No costs.

03.09.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
msa



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To

WEB COPY

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R.VIJAYAKUMAR, J.

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