



W.P.No.26715 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.26715 of 2018 and
W.M.P.No.31079 of 2018

Mr.R.Murugan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Rural Development,
Chennai 600 009.

2.The Inspector of Panchayats cum
District Collector,
Office of the District Collectorate,
Salem District.

3.Thethigiripatti Village Panchayat,
Rep. by its President,
Thethigiripatti Village,
Mettur Taluk,
Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in Na.Ka.No.36075/2014/T3 dated 12.04.2018 and to quash the same and consequently, direct the respondents to



W.P.No.26715 of 2018

appoint the petitioner in the post of Panchayat Clerk in Maecheri Panchayat Union.

For Petitioner : Mr.J.Srinivasa Mohan

For Respondents : Mr.T.Chezhiyan, AGP for R1 & R2

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in Na.Ka.No.36075/2014/T3 dated 12.04.2018 and to quash the same and consequently, direct the respondents to appoint the petitioner in the post of Panchayat Clerk in Maecheri Panchayat Union.

2. Heard Mr.J.Srinivasa Mohan, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for the first and second respondents and perused the materials available on record.

3. The Government has announced the age relaxation in respect of upper age limit for entering into Government service by five years to



W.P.No.26715 of 2018

enable the unemployed persons affected due to the ban order on recruitment, to apply for Government jobs and issued in G.O.Ms.No.98 Personnel and Administrative Reforms (S) Department dated 17.07.2006.

4. In the light of the above Government Order, the petitioner has been appointed as part-time clerk on 19.07.2006 in the third respondent Panchayat. The petitioner has also joined duty. After four months, the second respondent issued a show-cause notice to the petitioner as to why his appointment should not be cancelled in view of the reason that he was over aged at the time of appointment.

5. The explanation given to the second respondent about the age relaxation given in the Government Order was not accepted and hence, the third respondent had cancelled the appointment of the petitioner by its order dated 27.11.2006. Aggrieved over the same, the petitioner has filed a writ petition in W.P. No. 5522 of 2007 and the same was allowed by issuing the directions. For the sake of convenience, the essential paragraph of the above order is given as under:-



W.P.No.26715 of 2018

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"10. The Appointment Committee held on 25.05.2006 on consideration of all applications, has resolved to appoint the petitioner as a Part-Time Clerk considering the fact that amongst all the candidates, the petitioner is more qualified person possessing B.A. Degree. Further, in the ordinary meeting of the Panchayat held on 13.07.2006 has unanimously accepted the resolution of the Appointment Committee dated 25.05.2006 to appoint the petitioner as a Part-Time Clerk. Pursuant to the said resolution, the third respondent issued an order of appointment to the petitioner on 19.7.2006 and the petitioner has reported for duty on the same day. Thereafter, the third respondent written a letter to the Block Development Officer and the same was also forwarded to the second respondent for his formal approval. The second respondent has passed the impugned order on the ground that the petitioner is over age on the date of his appointment.

11. Further, from the perusal of the records, it is seen that the petitioner has filed this writ petition challenging the impugned order of the second respondent along with M.P. No. 1 of 2007 for stay of operation of the order passed by the second respondent and this Court at the time of admission of this writ petition, passed an interim



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W.P.No.26715 of 2018

order dated 16.02.2007, it runs as follows:

“The petitioner, as on today is working pursuant to the resolution dated 13.07.2006 and his status shall not be disturbed until further orders.”

Thereafter, the petitioner has also made a representation dated 1.3.2007 to the second respondent along with a copy of the interim order passed by this Court. Even then, he was not allowed to work.

12. Now, the learned Special Government Pleader appearing for the third respondent would submit that the successor of the then President has appointed the new incumbent by name S.Ravikumar as Panchayat Clerk in the regular vacant place subject to the result of the writ petition and he continued to work as Panchayat Clerk and as such the third respondent has not disobeyed the interim order passed by this Court. Therefore, the same will not affect the relief sought for by the Petitioner in this writ petition. The said submission made by the learned Special Government Pleader is recorded.

13. In the result, the writ petition is allowed and the impugned order of the second respondent in Na.Ka.No.5751/2006/A5, dated 27.11.2006 is set aside and the respondents are directed to permit the petitioner to resume duty within a period of three weeks from the date of



W.P.No.26715 of 2018

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receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. Against the order passed in the above Writ Petition, a Writ Appeal has been filed in W.A. Nos.16 and 1674 of 2014. Despite direction has been given by the Division Bench of this Court in the above writ appeal to ascertain whether any subsequent vacancy has arisen in order to accommodate the petitioner in the light of the Government order giving age relaxation, the second respondent did not consider and he had chosen to reject the representation of the petitioner. The impugned order appears to have been passed without understanding the true letter and spirit of the direction given by the Division Bench of this Court in the judgment dated 20.11.2017 in W.A. Nos.16 and 1674 of 2014.

7. The learned Additional Government Pleader for the respondents 1 and 2 submitted that the resolution of the Panchayat has been passed on 25.05.2006 even two months prior to the date on which G.O.Ms.No.98 dated 17.07.2006 was issued for relaxing the age limit for five years.



W.P.No.26715 of 2018

Hence, it is submitted that on the date when the appointment of the petitioner was made, there is no Government Order to relax the age eligibility of the petitioner and hence, the appointment is in violation of the rules which were in force at the relevant point of time.

8. To be noted that the Writ Appeal filed by the Government in W.A.No.16 of 2014 did not touch on the merits of the order passed by the learned Single Judge which is just disposed by correcting the clerical error crept in the order of the learned Single Judge. On perusal of the order of the learned Single Judge, it is found that during the Writ Proceedings, the Government has made a representation stating that the appointment order has been issued to the petitioner on 13.07.2006. In the impugned order, it has been stated that the resolution of the Panchayat has been passed on 25.05.2006. Even the factual details submitted by the respondent Government, there are contradictions.

9. Whatever may be the case, the Government Order has been issued on 17.07.2006 by relaxing the age limit only by taking into



W.P.No.26715 of 2018

consideration of the fact that all the appointments have been banned from the year 2001. The resolution passed by the Panchayat alone will not confer any appointment on the petitioner, unless it fructifies into an order of appointment. The appointment order appears to have been given on 19.07.2006 which is two days after coming into force of the Government Order dated 17.07.2006.

10. The very object of issuance of Government Order itself is to give an opportunity to the persons who might suffer age ineligibility issue in view of the long ban for appointment. So the second respondent could have considered the representation of the petitioner and the direction of this Court in an objective manner and passed an order by granting age relaxation benefit to the petitioner. As the order has not been passed neither in the spirit of the Government Order nor considering the spirit of the orders passed by this Court in W.P.No.5522 of 2007 which was confirmed in W.A.Nos.16 and 1674 of 2014, it is liable to be set aside.



W.P.No.26715 of 2018

11. In the result, this Writ Petition is allowed and the order passed by the second respondent in Na.Ka.No.36075/2014/T3 dated 12.04.2018 is set aside. The second respondent is directed to pass a fresh order by considering the representation of the petitioner positively and pass orders relaxing the age of the petitioner in terms of the Government Order in G.O.Ms.No.98 Personnel and Administrative Reforms (S) Department dated 17.07.2006 by considering the date of appointment of the petitioner as 19.07.2006. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2025

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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W.P.No.26715 of 2018

R.N.MANJULA, J.

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To

- 1.The Secretary,
Rural Development,
Chennai 600 009.
- 2.The Inspector of Panchayats cum
District Collector,
Office of the District Collectorate,
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- 3.The President,
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