

W.A(MD).Nos.462 & 574 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 09.09.2025

PRONOUNCED ON : 16.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**  
**and**  
**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD).Nos.462 & 574 of 2020  
and  
CMP(MD).Nos.3449 & 3834 of 2020

WA(MD).No.462 of 2020

1.The District Collector  
Sivagangai District  
Sivagangai

2.The Revenue Divisional Officer  
Office of the Revenue Divisional Officer  
Ramnagar, Devakottai  
Sivagangai District.

3.The Tahsildhar  
Office of the Tahsildhar  
Ramnagar, Devakottai  
Sivagangai District

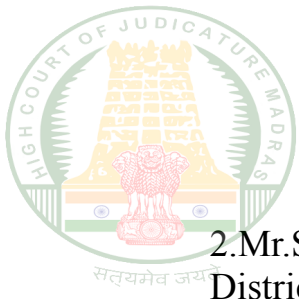
4.The District Employment Officer  
Office of the District Employment Office  
Sivagangai  
Sivagangai District

...Appellants/Respondents 1 to 4

Vs

1.P.Vanitha

...1<sup>st</sup> Respondent/Writ Petitioner



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2.Mr.Sankara Subramanian  
District Employment Office  
Office of the District Employment Office  
Sivagangai  
Sivagangai District

3.Mrs.Amutha ....Respondents 2 & 3/Respondents 5 & 6

WA(MD).No.574 of 2020

Mrs.Amutha ....Appellant/6<sup>th</sup> Respondent

Vs

1.The District Collector  
Sivagangai District  
Sivagangai

2.The Revenue Divisional Officer  
Office of the Revenue Divisional Officer  
Ramnagar, Devakottai  
Sivagangai District.

3.The Tahsildhar  
Office of the Tahsildhar  
Ramnagar, Devakottai  
Sivagangai District

4.The District Employment Officer  
Office of the District Employment Office  
Sivagangai  
Sivagangai District

5.Mr.Sankara Subramanian  
District Employment Office  
Office of the District Employment Office  
Sivagangai  
Sivagangai District

6.P.Vanitha ....Respondents  
/Petitioners in WP(MD).No.2489 of 2015



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**Common Prayer:** Writ Appeals filed under Clause 15 of Letters Patent, to set aside the judgment dated 17.02.2020 passed in WP(MD).No.2489 of 2015 on the file of this Court.

(In WA(MD).No.462 of 2020)

For Appellants : Mr.S.R.A.Ramachandran  
Additional Government Pleader

For Respondents : Mr.H.Mohammed Imran  
For M/s.Ajmal Associates for R1

: No appearance for R2

: Mr.S.Vellai Chamy for R3

(In WA(MD).No.574 of 2020)

For Appellant : Mr.S.Vellai Chamy

For Respondents : Mr.S.R.A.Ramachandran  
Additional Government Pleader for R1 to R4

: No appearance for R5

: Mr.H.Mohammed Imran  
For M/s.Ajmal Associates for R6

### **COMMON JUDGMENT**

(Made by **R.VIJAYAKUMAR,J.**)

These two writ appeals have been preferred by the respondents in WP(MD).No.2489 of 2015 challenging the order of the writ Court dated 17.02.2020.



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**(A)Factual Matrix:**

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2.One Mrs.P.Vanitha who is an aspirant to the post of Village Assistant for Vengaloor Village, Devakottai Taluk, Sivagangai District had filed the above said writ petition challenging the appointment order issued to one Mrs.Amutha on 02.12.2014 and for a Mandamus to fill up the said post by way of issuing public notification and proceed with the recruitment process.

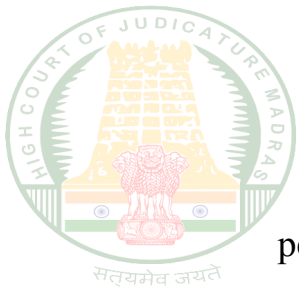
3.The appointment of Mrs.Amutha was put to challenge primarily on the following grounds:

a)The candidates who have been sponsored through Employment Exchange alone have been taken into consideration in the selection process. No public notification was issued by way of paper publication. This violates Article 14 and 16 of the Constitution of India.

b)Even though the writ petitioner has also registered herself before the Employment Exchange, her name was not sponsored on the sole ground that she had passed 8<sup>th</sup> Standard and therefore, she is overqualified for the said post.

4.The writ Court had allowed the writ petition on the following grounds:

a)For the appointment of Mrs.Amutha as Village Assistant, advertisement/paper publication has not been made. Though the writ



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petitioner has made objections for selecting the persons on extraneous consideration, it has been dealt with in a lethargic manner.

b) For an RTI application made by the writ petitioner, though it is stated that paper publication has been made, no proof has been filed on the side of the respondents to substantiate the same and the counter also does not disclose about the paper publication.

c) Only 8 persons have been sponsored by the Employment Exchange and 3 of them have attended the interview.

d) All three of them have been appointed to various villages as Village Assistants. This creates doubt over the appointment process.

5. Based upon the said findings, the writ Court had allowed the writ petition and set aside the appointment order issued to Mrs. Amutha. Further, the writ Court has also issued a direction to the Secretary to Government, Revenue Department for taking appropriate action as against the erring officials.

6. Challenging the said order, the official respondents have filed W.A(MD).No.462 of 2020. The appointed candidate, namely Mrs. Amutha has filed W.A(MD).No.574 of 2020.



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**(B).Submissions of the counsels appearing on either side:**

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7.The learned Additional Government Pleader appearing for the official respondents submitted that the selection process for the post of Village Assistant is governed by Tamil Nadu Village Assistants Service Rules published in G.O.Ms.No.521 Revenue (Ser.VII(2) Department, dated 17.06.1998. As per Rule-2, the appointment of a Village Assistant has to be made by direct recruitment through the Employment Exchange concerned. As per Rule-6, pass in V Standard is a minimum educational qualification required for the said post. As per Rule 7(c), the person appointed to the post shall belong to the village to which he is appointed or the adjoining village if no suitable candidate is available in that village.

8.The learned Additional Government Pleader had further submitted that the Hon'ble Supreme Court in a judgment reported in **(2011) 3 SCC 436 (State of Orissa and another Vs. Mamata Mohanty)** has held that apart from inviting application from the Employment Exchange, paper publication should also been made. In view of the judgment of the Hon'ble Supreme Court, the Service Rules were amended under G.O.(Ms).No.375 Revenue Department dated 19.10.2015 wherein Rule-2 was amended to the effect that apart from calling for list from the Employment Exchange, advertisement should also be made in newspaper. Rule 7(c) was also amended to the effect



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that the person appointed to the post shall belong to the Taluk instead of Village. Relying upon the said amendment, he submitted that these amendments were brought in only on 19.10.2015. The present appointment has been made on 02.12.2014 itself. Therefore, the appointment order cannot be questioned on the ground of violation of the order of the Hon'ble Supreme Court. He had further submitted that the authorities have strictly followed the Service Rules prevailing on the said date. Hence, the direction issued by the writ Court for initiating departmental action as against the officials is not sustainable in the eye of law.

9.The learned counsel appearing for the appellant/selected candidate in WA(MD).No.574 of 2020 has submitted that the minimum educational qualification required for being appointed as a Village Assistant is a pass in V Standard. The candidates who were sponsored by the the Employment Exchange have passed only V Standard, but not VIII Standard. However, the writ petitioner has passed VIII Standard. Therefore, none of the candidates who have passed VIII Standard were sponsored by the Employment Exchange.

10.The learned counsel appearing for the appellant/selected candidate had further submitted that the appellant had registered herself before the Employment Exchange on 23.08.2011 whereas the writ petitioner has got registered herself before the Employment Exchange only on 07.02.2014. In



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such circumstances, the petitioner having registered herself three years after the selected candidate was below the selected candidates and hence, her name was not sponsored.

11.It was further submitted that the candidates who have registered themselves before the Employment Exchange and should have not passed VIII Standard, would not have any other employment opportunity in the Government other than this post. On the other hand, the candidates like the writ petitioner who had passed VIII Standard would have many other avenues for getting Government employment. In such circumstances, the employment exchange cannot be blamed for not sponsoring the name of the writ petitioner due to lack of seniority and over qualification.

12.The learned counsel for the appellant/selected candidate further submitted that she was appointed on 02.12.2014 and she is functioning as Village Assistant for more than 10 years. Even assuming that there is any flaw in the selection process, it is not attributable to the selected candidates. The selected candidate is fully qualified and she has been selected as per Service Rules prevailing on the date of selection. He relied upon a decision of the Hon'ble Supreme Court reported in **2024 (2) CTC 1 (M.Sivappa Vs. State of Tamil and others)** and contended that the services of the selected candidate may not be disturbed at this length of time.



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13.We have carefully considered the submissions made on either side and perused the material records.

**(C).Discussion:**

14.The writ Court has proceeded to set aside the order of appointment of Mrs.Amutha as Village Assistant primarily on the ground that the paper publication has not been made calling for application from the eligible candidates.

15.The Hon'ble Supreme Court in a judgment reported in **(2011) 3 SCC 436 (State of Orissa and another Vs. Mamata Mohanty)** in Paragraph No.36 has held as follows:

*“36.Therefore, it is a settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the Employment Exchange or putting a note on the Notice Board etc. that will not meet the requirement of Articles 14 and 16 of the Constitution. Such a course violates the mandates of Articles 14 and 16 of the Constitution of India as it deprives the candidates who are eligible for the post, from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance of the said Constitutional requirement is to be fulfilled. The equality clause enshrined in Article 16 requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit.”*



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16.A perusal of the above said judgment reveals that it relates to the appointment of a lecturer in an aided College. Paragraph No.4 of the judgment reveals that the lecturer was appointed without a public advertisement nor the names were sponsored by the Employment Exchange. No interview was conducted by the Selection Board as envisaged by the Statutory Rules in force at the relevant point of time. The said candidate was interviewed by some representatives of the College Management and had been issued an appointment order.

17.In the light of the said factual decision, the Hon'ble Supreme Court was pleased to lay down the law that apart from sponsoring of names from the Employment Exchange, public advertisement should also be made. However, in the present case, the statutory Service Rules prevailing at the time of selection provided only for inviting applications from the Employment Exchange. Those Service Rules were amended based on the judgment of the Hon'ble Supreme Court cited supra only in the year 2015 so as to incorporate the mode of public advertisement in the Service Rules. That apart, the post of Village Assistant is the last cadre in the Revenue Department and one of the conditions for appointment to the said post is that, the candidates should belong to the said village or the adjoining village. In such circumstances, the non-issuance of advertisement in a newspaper calling for application from the general public cannot be considered to have vitiated



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the selection process.

**WEB COPY** 18.The learned counsel for the writ petitioner had further contended that merely because a candidate is over-qualified, the Employment Exchange cannot stop sponsoring the said name. According to him, over qualification is not a disqualification. He also relied upon a decision of this Court reported in **2017 (2) CWC 137 (B.Deepak Jothi Vs. The Commissioner of Municipal Administration and others)** wherein this Court had directed appointment of a Garbage Lorry Driver (who is an Engineer Graduate) after obtaining undertaking from him that he would drive a Garbage Lorry.

19.In a recent decision, the Hon'ble Supreme Court had an occasion to consider the issue of over-qualification in a judgment reported in **2025 SCC Online SC 711 ( Jomon K.K. Vs. Shajimon P. and others)**. Paragraph No.36 of the said judgment is extracted as follows:

*“36.We know of decisions holding that over-qualification cannot be a disqualification since such an approach amounts to discouraging the acquisition of qualifications on the one hand and on the other, such an approach could be seen as arbitrary, discriminatory and not in national interest. However, this principle cannot be put in a straitjacket imposing rigid or inflexible rules or norms. Lack of public employment opportunities in sufficient numbers may force even a Master degree holder to apply for the job of a peon but, if he is appointed upon his application being favourably considered, what happens to the aspirants who have not*



*had the means of pursuing study beyond the 12th standard? Do they remain unemployed for ever, if all or majority of the posts of peon are filled up by such degree holders? What happens if the Master degree holder, in pursuit of greener pastures, leaves the post of Peon for a better and secured higher job commensurate with his qualifications after a couple of years? Does it not, in such a case, burden the public exchequer by requiring the employer to initiate a fresh selection process? Is not the State, as a model employer, obliged to ensure that the posts of peon are filled up only by those having the basic qualification, and not by over qualified candidates, for sub-serving the common good? Does not the State have the obligation to strive to ensure that all citizens have adequate means of livelihood? These are questions which no Court can afford to ignore. We end by saying that each case that comes before the Court has to be decided on its own peculiar facts and the problem that it presents for resolution and that there can be no universally accepted rule that every time, a higher qualified candidate is to be preferred to a candidate who matches the essential qualification required for the post.*

20.As per Service Rules, the minimum educational qualification required for being appointed as a Village Assistant is a pass in V Standard. The selected candidate had passed V Standard, but she has not passed VIII Standard. However, the writ petitioner has passed VIII Standard. The candidates who have not even cleared VIII Standard may not have any such job opportunity other than the post of Village Assistant in a Government



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service. On the other hand, the aspirant like the writ petitioner may have other avenues also. In such circumstances, in the light of the judgment of the Hon'ble Supreme Court cited supra, we are of the considered opinion that the non-sponsoring of the writ petitioner by the Employment Exchange for the last cadre of service in the Revenue Department on the ground of over-qualification, cannot be found fault with.

21.Though allegations have been made in the writ petition that the appointments have been made based on extraneous consideration, no concrete materials have been placed on record either before the writ Court or before this Court. The selected candidate possesses educational qualification and conforms to other eligibility criteria as per Service Rules prevailing at the time of appointment. The selected candidate is working as a Village Assistant for the past 11 years. Under such circumstances, it would not be appropriate to disturb the said appointment on a vague allegation made by the writ petitioner.

22.The appointing authority has strictly followed the Service Rules prevailing at the relevant point of time and had invited applications from the Employment Exchange. As pointed out supra, no records have been placed to point out that the appointment has been made on extraneous considerations. In such circumstances, the direction issued by the Writ Court for initiation of departmental action as against the officials concerned is not sustainable in the



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eye of law and the same is liable to be set aside.

WEB COPY **(D).Conclusion:**

23.In the light of the above said deliberations, the order of the writ Court is set aside and both the writ appeals stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K.J.,)

(R.V.J.,)

16.09.2025.

Index :Yes/No  
Internet :Yes/No  
NCC : Yes/No  
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- 5.The Section Officer  
V.R.Section  
Madurai Bench of Madras High Court  
Madurai



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**C.V.KARTHIKEYAN,J.  
AND  
R.VIJAYAKUMAR,J.**

msa

Pre-delivery Judgment made in  
W.A(MD).Nos.462 & 574 of 2020  
and  
CMP(MD).Nos.3449 & 3834 of 2020

**16.09.2025**