



WEB COPY

W.A.No.1089 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.10.2024

PRONOUNCED ON : 24.10.2024

CORAM:

**THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.1089 of 2021
and C.M.P.No.6902 of 2021**

1.The District Collector,
Villupuram District,
Villupuram.

2.The Personal Assistant
to the District Collector (Nutrition),
Office of the District Collector,
Villupuram.

3.The Commissioner,
Mugaiyur Panchayat Union,
@ Manampoondi,
Villupuram District.

...

Appellants /
Respondents 1 to 3

versus

1.Sivagnanam

...

Respondent /
Petitioner

2.Sumathi

...

Respondent /
4th Respondent



PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 20.09.2019 in W.P.No.25588 of 2008.

WEB COPY

For Appellants : Mr.Stalin Abhimanyu
Additional Government Pleader
For Respondent No.1 : Mr.R.Prem Narayan

J U D G M E N T

[*Judgment* of the Court was made by **G.ARUL MURUGAN, J.**]

This intra-court appeal is preferred against the order dated 20.09.2019 in W.P.No.25588 of 2008, whereby the writ court had set aside the appointment order issued in favour of the second respondent as Assistant Cook and directed the appellants to consider the application submitted by the first respondent / writ petitioner to the post of Assistant Cook.

2. The second respondent herein was selected and appointed as Assistant Cook pursuant to the notification issued by the first appellant for appointment to the post of Assistant Cook in Panchayat Union Primary School at Nathankaduvetti, Mogaiyur Panchayat Union. The first respondent had applied to the post under the category of widow and also attended the interview on 02.03.2007. Even though the first respondent,



WEB COPY

being a widow, was entitled to a preference in the selection in terms of the notification issued, the second appellant, by the impugned order dated 29.07.2008, has appointed the second respondent as Assistant Cook. Challenging the orders issued appointing the second respondent, the first respondent preferred the writ petition.

3. The learned Judge, by holding that the writ petitioner was entitled to have preferential treatment in the category of widow in view of the notification / advertisement issued by the first appellant / District Collector, the appointment order issued in favour of the second respondent, who is not a widow, is against the notification issued. The learned Judge further found that the first respondent, even though she is a widow, is not facing indigent circumstances, cannot be a reason as the notification does not require such a situation and thereby allowed the writ petition.

4. Assailing the impugned order passed in the Writ Petition, the official respondents had preferred the above Writ Appeal.



5. Mr.Stalin Abhimanyu, learned Additional Government Pleader appearing for the appellants submitted that, the appellants have gone by the guidelines and relevant rules that are in force and that are to be followed for appointment to the post of Assistant Cook and thereby, since the second respondent alone possessed the necessary qualifications, she has been appointed and posted as the Assistant Cook. It is his further contention that the interview was also conducted and widow is not only the main criteria for selection but the IQ and mental ability of the candidates for the post of Assistant Cook were tested and therefore, it is not only the preference but the competence was also the criteria for selection.

6. It is the further contention of the learned Additional Government Pleader that, only pursuant to the recommendation of the committee, the appointment order was issued in favour of the second respondent as she was fully qualified for the post of Assistant Cook and therefore, the impugned order of the learned Judge in setting aside the selection and appointment of the second respondent on the ground that the first respondent ought to have been considered, since she being a widow is unsustainable and sought for indulgence of this Court.



7. Per contra, Mr.R.Prem Narayan, learned counsel for the first respondent submitted that, the appellants can proceed with the selection strictly only in terms of the notification / advertisement issued and they cannot add or substitute any additional parameters, which is not found part in the advertisement issued. It is his further contention that among all the candidates applied, the first respondent alone was the widow and in any event, more particularly the second respondent, who was selected admittedly, is not a widow and therefore not entitled to the preference. He contended that only taking note of all these aspects, the learned Judge had allowed the writ petition, which is perfectly in order and needs no interference and sought for dismissal of the appeal.

8. Heard the submissions of the respective counsels and perused the materials on record.

9. The Government is selecting and appointing the candidates for the post of Cooks and Assistant Cooks in the Noon Meal Centres constituted under the Puratchi Thalaivar M.G.R. Noon Meal Scheme Centres and Integrated Child Development Project. Further, apart from the



post of Cooks and Assistant Cooks, Noon Meal Organisers, Assistants, Anganwadi workers and Anganwadi Assistants are also recruited and appointed. In this regard, the Government has issued G.O.(SO).No.4, Social Welfare and Nutritious Meal Scheme (Sa.Vu Thi2) Department, dated 05.01.2007, for filling up of the vacancies existing at the Noon Meal Centres as mentioned in Annexure-I to the Government Order. The selections are to be made in view of the prevailing orders and the guidelines given pertaining to the educational qualification, age limit, reservation mode, distance from the centres and other criteria. As per Annexure-I to the Government Order, in Villupuram District, 179 vacancies were available for the post of Noon Meal Cooks.

10. To fill up the vacancies, the first appellant issued an advertisement on 03.03.2007 in the local newspaper calling for the applications for recruitment to the post of Assistant Cook in Panchayat Union Primary School at Nathankaduvetti, Mogaiyur Panchayat Union, along with other posts in the other Panchayat Unions. The qualifications and the preferential criteria to be adopted in the selection have been set out in the notification, which reads as follows:-



WEB COPY

“சமையலர் மற்றும் சமையல் உதவியாளர் பணியிடம்

கல்வி தகுதி எழுதப்படிக்க தெரிந்திருக்க வேண்டும்

வயது 25 வயது முதல் 40 வயது வரை (01.03.2007 அன்றைய தேதியில்),
பெண்கள் மட்டும்.

* அமைப்பாளர், சமையலர் மற்றும் சமையல் உதவியாளர் பணியிடங்களுக்கு
காலியாக உள்ள சத்துணவு மையத்தில் இருந்து 10 கிமீட்டர் சுற்றளவிற்குள்
வசிக்கும் பெண்கள் மட்டுமே விண்ணப்பிக்க தகுதியுடையவர்கள்.

* இவர்களில் காலப்பணியிடம் உள்ள அதே குக்கிராமத்தில் வசிக்கும்
தகுதியான பெண்கள் முதலில் பரிசீலிக்கப்படுவர்.

* அதே குக்கிராமத்தில் தகுதியான நபர்கள் கிடைக்காத பட்சத்திர் அதே
கிராம ஊராட்சிடையச் சேர்த்த அருகாமையிலுள்ள பிற குக்கிராமங்களில்
இருந்து தகுதியான நபர்கள் தேர்விற்கு பரிசீலனை செய்யப்படுவர்.

* தகுதியான நபர்கள் கிடைக்காத பட்சத்தில் அந்த ஊராட்சியை ஒட்டியுள்ள
10 கிமீட்டருக்கு மிகாமல் உள்ள ஊராட்சிகளில் இருந்து தகுதியான நபர்கள்
தேர்விற்கு பரிசீலனை செய்யப்படும்.

* **விதவை மற்றும் கணவனால் கைவிடப்பட்டவர்களுக்கு முன்னுரிமை
அளிக்கப்படும்.** அமைப்பாளர் பதவிக்கு இன ஒதுக்கீடு முறை பின்பற்றப்படும்.

* நியமனம் தொடர்பாக யாரிடமும் பணம் கொடுத்து ஏமாற வேண்டாம்
என்று ஆட்சியர் பிரஜேந்திர நவந்தி கேட்டுக்கொண்டுள்ளார்.

* மேலும் விவரங்களை அந்தந்த ஒன்றிய அலுவலகங்களில் தெரிந்து
கொள்ளலாம். இவ்வாறு அந்த செய்தி குறிப்பில் கூறப்பட்டுள்ளது.”

11. As this was a paper publication, a specific query was posed to
the Additional Government Pleader appearing for the appellants in respect



of the notification issued and he has confirmed that the publication dated 03.03.2007 in the local newspaper is the recruitment notification issued calling for recruitment to the post of Assistant Cooks. Further, as per G.O.(SO).No.4, dated 05.01.2007, the appellants were permitted to fill up the posts by following the guidelines as set out earlier. As such the appellants were directed to file all the earlier orders, by which the criteria for selection of the candidates were prescribed.

12. The earlier orders issued and filed before this Court, particularly G.O.(Ms.)No.203, Social Welfare and Nutritious Meal Scheme (Sa.Vu.Thi7) Department, dated 19.08.2005, only prescribes the following criteria to be followed in respect of the recruitment to the post of Assistant Cooks. Para 6 of the said Government Order is extracted hereunder:-

“6. ஊரக வளர்ச்சி இயக்குநர் மற்றும் திட்ட ஒருங்கிணைப்பாளர், உலக வங்கி உதவி பெறும் ஒருங்கணைந்த குழந்தைகள் வளர்ச்சிப் பணிகள் 3வது திட்டம்

கருத்துக்களை அரசு கவனமுடன் பரிசீலனை செய்து அதன் படி மேலே படிக்கப்பட்ட அரசாணையில் வெளியிடப்பட்ட ஆணைகளின் படி காலிப்பணியிடங்களுக்கு நியமனம் செய்யப்படும் போது மையத்திலிருந்து துர சுற்றளவு கடைப்பிடிப்பது பின் வருமாறு தெளிவுரைகள் வழங்கப்படுகின்றன.



WEB COPY

W.A.No.1089 of '20



அ) எந்த சத்துணவு மற்றும் அங்கன்வாடி மையங்களில் காலி பணியிடம் அதே குக்கிராமத்தில் (Hamlets) வசிக்கும் தகுதியான பணி நியமனம் செய்ய வேண்டும்.

ஆ) தகுதியான நபர்கள் கிடைக்காத பட்சத்தில் அதே கிராம ஊராட்சியைச் (panchayat) சேர்ந்த அருகாமையிலுள்ள பிற குக்கிராமங்களிலிருந்து (Hamlets) தகுதியான நபர்களை தேர்வு செய்ய வேண்டும். அவ்வாறு தகுதியான நபர்கள் கிடைக்காத பட்சத்தில் அவ்வூராட்சி ஒட்டி 10 கிமீக்கு மிகாமல் உள்ள ஊராட்சிகளிலிருந்து தகுதியான நபர் தேர்வு செய்ய வேண்டும்.

இ) நகராட்சி / மாநகராட்சியைப் பொருத்தமட்டில் காலிப்பணியிடம் உள்ள அதே வார்டில் தகுதியான நபர்களைக் கொண்டும் அவ்வாறாக கிடைக்காத பட்சத்தில் அருகாமையிலுள்ள வார்டில் இருந்தும் அவ்வாறாக இல்லையெனில் அந்தக் கோட்டத்திலிருந்து தேர்வு செய்ய வேண்டும்.”

13. As there are no other guidelines or rules except the criteria that have been mentioned above, the conditions that are mentioned and notified in the recruitment notification / publication alone can be considered for the purpose of selection to the post of Assistant Cook in the Mogaiyur Panchayat Union, Villupuram District.

14. On the perusal of the notification, it specifically gives a preference to the widows and the destitute women in selection and appointment to the post of Cook and Assistant Cook.



WEB COPY

15. It is not in dispute that the certificates filed by the first respondent show that she is a widow and further from the counter affidavit filed by the second respondent before the writ court, she has not asserted that she is either a widow or a destitute woman. On the contrary, it was only the stand of the second respondent that the first respondent herein though is a widow, she is not in an indigent circumstance and therefore, she is not entitled to the preferential treatment in selection. It could be seen that the appellants have not filed any counter affidavit before the writ court and the second respondent has also not preferred any appeal as against the impugned order in the writ petition.

16. Admittedly, as per the recruitment notification issued by the first appellant, preference will be given to the widows and there is no condition that the widow must be in an indigent condition and more particularly, when the second respondent was admittedly not a widow or destitute woman, she is not entitled to the preferential treatment and therefore the selection of the second respondent to the post of Assistant Cook, ignoring the application of the first respondent, is against the very notification issued by the first appellant.



WEB COPY

17. The arguments of the learned Additional Government Pleader for the appellants that the preference alone cannot be a basis and the committee had tested the other parameters, particularly the ability to be appointed to the posts, cannot be sustained as the second respondent, who is admittedly not eligible to have preferential treatment, has been selected by ignoring giving preference to the application of the first respondent. In fact, even the learned Judge while setting aside the selection made in favour of the second respondent, had directed the appellants to consider the application of the first respondent for the post of Assistant Cook only in case no other widow or destitute widow had appeared in the interview and if any of them had appeared, then it is for the second appellant to select the most suitable candidate for the post of Assistant Cook from among them.

18. The order of the learned Judge is completely based on the very recruitment notification issued by the first appellant and also the direction has been given to the appellants to consider all the other applications, who are entitled to the preference along with the first respondent and thereafter



appoint the suitable candidate, which is perfectly justified, we see no error or infirmity in the order of the learned Judge, which requires interference.

19. In view of the same, the order of the learned Judge is sustained and accordingly, this Writ Appeal stands ***dismissed***. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] [G.A.M.J.]
24.10.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



Copy to:

- 1.The District Collector,
Villupuram District,
Villupuram.
- 2.The Personal Assistant
to the District Collector (Nutrition),
Office of the District Collector,
Villupuram.
- 3.The Commissioner,
Mugaiyur Panchayat Union,
@ Manampoondi,
Villupuram District.



WEB COPY

W.A.No.1089 of 2021



Dr. ANITA SUMANTH, J.
AND
G.ARUL MURUGAN, J.

sri

Pre-Delivery Judgment made in
W.A.No.1089 of 2021
and C.M.P.No.6902 of 2021

24.10.2024