

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 11036 of 2009 (Y)

PETITIONER:

RAJITHA,
W/O. PARAMESWARAN V.,
THALAVATTAMPARA HOUSE,
NSS COLLEGE P.O., NEMMARA, PALAKKAD.

BY ADV. SRI.HARIKRISHNAN RAVINDRAN

RESPONDENTS:

1. CHILD DEVELOPMENT PROJECT OFFICER,
ICDS, NEMMARA, PALAKKAD.
2. STATE OF KERALA, REP. BY ITS SECRETARY,
SOCIAL WELFARE DEPARTMENT, GOVT. SECRETARIAT
THIRUVANANTHAPURAM.

R1 & R2 BY GOVERNMENT PLEADER SRI. P.V.ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

APPENDIX

PETITIONERS' EXHIBITS

- EXT- P1- TRUE COPY OF THE APPOINTMENT ORDER DATED 20-08-2007
POSTING THE PETITIONER
- EXT- P2- TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT
DATED 15-07-2008
- EXT- P3- TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT
DATED 21-10-2008
- EXT- P4- TRUE COPY OF THE GOVERNMENT ORDER DATED 10-11-2010
- EXT- P5- TRUE COPY OF THE PROCEEDINGS OF THE ADDL. CHILD
DEVELOPMENT PROJECT OFFICER, NANMARA DATED 19-05-2011

RESPONDENTS' EXHIBITS

- EXT- R1 (a)- TRUE COPY OF THE G.O. DATED 11-10-2006.
- EXT- R1 (b)- TRUE COPY OF THE G.O. DATED 06-01-2007.
- EXT- R1 (c)- TRUE COPY OF THE SENIORITY LIST OF THE ANGANWADI WORKERS
OF AYILOOR GRAMA PANCHAYAT DATED 21-10-2008
- EXT- R1 (d)- TRUE COPY OF THE NOTE DATED 28-11-2007 OF THE CHILD
DEVELOPMENT PROJECT OFFICER, NEMMARA.
- EXT- R1 (e)- TRUE COPY OF THE G.O. DATED 24-07-2007.
- EXT- R1 (f)- TRUE COPY OF THE GUIDELINES DATED 07-01-2006.

True copy

P.A. To Judge

C.K. ABDUL REHIM, J.

W.P.(c) No. 11036 OF 2009-Y

DATED THIS THE 5th DAY OF JANUARY, 2015.

J U D G M E N T

Brief facts narrated in the writ petition is that, the petitioner was appointed as 'Anganwadi Worker' under the Integrated Development Scheme sponsored by the Department of Social Welfare, by virtue of Ext.P1 order issued by the 1st respondent on 20-08-2007. It is alleged that after about 3 months of issuance of Ext.P1 the 1st respondent had taken back the original of Ext.P1 order on the assurance that it will be retained by the 1st respondent and that the petitioner will be considered as regular appointee. But by virtue of Ext.P3 another order of appointment was issued stating that the petitioner was temporarily appointed for a period of 89 days. The petitioner contended that by virtue of Ext.P1 she is entitled to be retained on a regular basis in the service as 'Anganwadi Worker'. Hence the petitioner is seeking declaration to the effect that she is to be treated as regular

'Anganwadi Worker' with effect from the date of Ext.P1 and that she should be provided employment on a regular basis without any break from the date of Ext.P1 onwards.

2. Eventhough Ext.P1 order does not specifically mention as to whether the appointment is to a regular vacancy or a temporary vacancy. It is evident that the petitioner was appointed not on the basis of any selection conducted based on any notification issued inviting applications. No selection was conducted based on any duly acceptable process. It is evident from Ext.P1 that the appointment made from a seniority list approved by the District Social Welfare Officer. But nothing is forthcoming from Ext.P1 that the list was prepared on the basis of a public invitation of applications and after undergoing any due process of selection. Under such circumstances this court is not inclined to make any declaration to the effect that by virtue of Ext.P1 the petitioner was appointed to regular service.

3. However it is pointed out that on the basis of the policy adopted by the State Government with respect to

regularisation of 'Anganwadi Workers' the petitioner was absorbed into regular service as per Ext.P5 with effect from 19-05-2011. Hence the relief sought for in this writ petition virtually stands redressed.

4. Learned counsel for the petitioner pointed out that the petitioner is entitled to get her service regularised with retrospective effect from the date of Ext.P1 order. It is left open to the petitioner to approach the appropriate authority seeking clarification in the matter and seeking the regularisation with retrospective effect from the date of temporary appointment. It is for the concerned authority to consider such request and to take appropriate decision.

5. Leaving open liberty to the petitioner to the extent as mentioned above, this writ petition is closed on the basis that the petitioner was already regularised as per Ext.P5 order.

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge