

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.22445 of 2015

and

M.P.Nos.1 and 2 of 2015

N.Uma Chandra

.. Petitioner

vs

1.The State of Tamil Nadu
Rep. By its Secretary
Social Welfare and Nutritious
Meal Programme Department
Fort St. George, Chennai 600 009

2.The Commissioner
Social Welfare Department
Guindy, Chennai 600 032.

3.The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
V.O.C. Nagar, Park Town
Chennai 600 003 .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the third respondent to appoint the petitioner as the Child Development Project Officer in the one of the vacant posts made available in the Notification No.242 dated 18.6.2010, of the third respondent and pay all the salary monetary benefits to the petitioner.

For Petitioner : Mr.M.V.Muralidharan

For Respondents : Mr.V.Subbiah
Special Government Pleader
for RR1 & 2

Ms.C.N.G.Niraimathi for R3

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that she, after successfully completing the Postgraduate Degree in Home Science, appeared for the written examination conducted by the third respondent viz. the Tamil Nadu Public Service Commission, for the post of Child Development Project Officer in the Office of the second respondent. The

petitioner claims that she belongs to Backward Class Community and as per the advertisement, 30 vacancies are stated to be filled up, and she was successful in her written examination and also participated in the oral test conducted on 28.2.2012, and when the third respondent issued the Provisional List on 1.3.2012, her name was found in the Reserve List for Backward Class.

3.The petitioner would further state that one selected candidate did not join the said post and therefore, the petitioner made a representation to the Hon'ble Minister for Social Welfare with a copy marked to all the respondents, requesting them to consider her name for the said vacancy, for the reason that she belongs to Backward Class Community and also performed well and however, her request was not considered and the third respondent has issued a Notification No.21/2014 dated 28.11.2014, calling for filling up of 117 vacancies, which includes one carry forward vacancy of Child Development Project Officer, and the petitioner came forward to file this writ petition seeking a direction to the third respondent to appoint her in the one vacant post made available in the Notification/Advertisement No.242 dated 18.6.2010.

4.Mr.M.V.Muralidharan, learned Counsel appearing for the petitioner, has drawn the attention of this Court to the typed-set as well as the additional typed-set of documents and would submit that admittedly, one selected candidate did not join the post and since the petitioner was placed in the waiting list, her claim should have been positively considered and without taking note of the same, the subsequent notification came to be issued and hence, prays for appropriate direction.

5.Per contra, Ms.C.N.G.Niraimathi, learned Standing Counsel, appearing for the third respondent, has invited the attention of this Court to the counter affidavit and would submit that 30 vacancies were notified as follows:-

CATEGORY	NO OF VACANCIES
GT (Open Competition)	9 (including one vacancy for Blind candidate)
BC (other than BC Muslim)	8
BC (Muslim)	1
MBC/DC	6
SC	5
SC (Arunthathiyar)	1
Total	30 (including one vacancy for blind candidate)

6.It is the further submission of the learned Standing Counsel appearing for the third respondent, that selection was finalised for 29 vacancies and one vacancy was meant for General Turn (Physically Handicapped - Visually Challenged) and the said vacancy was not filled up on account of non-availability of the concerned candidate and it has been carried forward to the next recruitment.

7. Insofar as the claim projected by the petitioner, it is the submission of the learned Standing Counsel appearing for the third respondent, that the petitioner's name did not come up for selection against the vacancies notified and she was placed in the reserve list at Serial No.2 under Backward Class (Women) Category and the first Backward Class candidate to be placed in the reserve list was Tmt. Vanitha having registration No.00103221, and her position was shown subject to the production of Community Certificate in the proper format and thereafter, she produced the certificate and a vacancy arose in the said communal category on account of non-joining of the post by one Premalatha with Registration No.00108073, and therefore, Tmt. Vanitha was accommodated in the said post.

8. It is also the submission of the learned Standing Counsel appearing for the third respondent, that the first Backward Class candidate viz. Tmt. Vanitha, in the reserve list, has secured a total mark of 226.50 and since the petitioner has secured only 208.50 marks and all the 29 vacancies have been filled up, her claim cannot be considered and prays for dismissal of this writ petition.

9. This Court has carefully considered the rival submissions and also perused the materials placed before it.

10. A perusal of the counter affidavit coupled with the typed-set of documents would disclose that 29 posts have been filled up and one vacancy has been withheld on account of non-production of Community Certificate in the proper format by Tmt. Vanitha with Registration No.00103221, and she has produced the same and came to be accommodated in the Backward Class Category for the reason that one Premalatha with Registration No.00108073, who was successful, did not join the said post. There was only one vacancy, which was unfilled, and it was meant for General Turn (Physically Handicapped - Visually Challenged) and the petitioner cannot be accommodated for the reason that she does not belong to the said Category, and since no suitable candidate was available, it was also carried forward to the next recruitment.

11. As rightly pointed out by the learned Standing Counsel appearing for the third respondent, the total marks secured by the candidate standing first in the Reserve List under the Backward Class category, was 226.50, whereas the petitioner has secured only 208.50 marks and therefore, on that ground also, the petitioner cannot be considered for selection.

12. In the light of the reasons assigned above, this Court is of the view that the writ petition deserves dismissal and accordingly, it is dismissed. However, in the circumstances of the case, there is no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To:

1.The Secretary to Government
Social Welfare and Nutritious
Meal Programme Department
Fort St. George, Chennai 600 009

2.The Commissioner
Social Welfare Department
Guindy, Chennai 600 032.

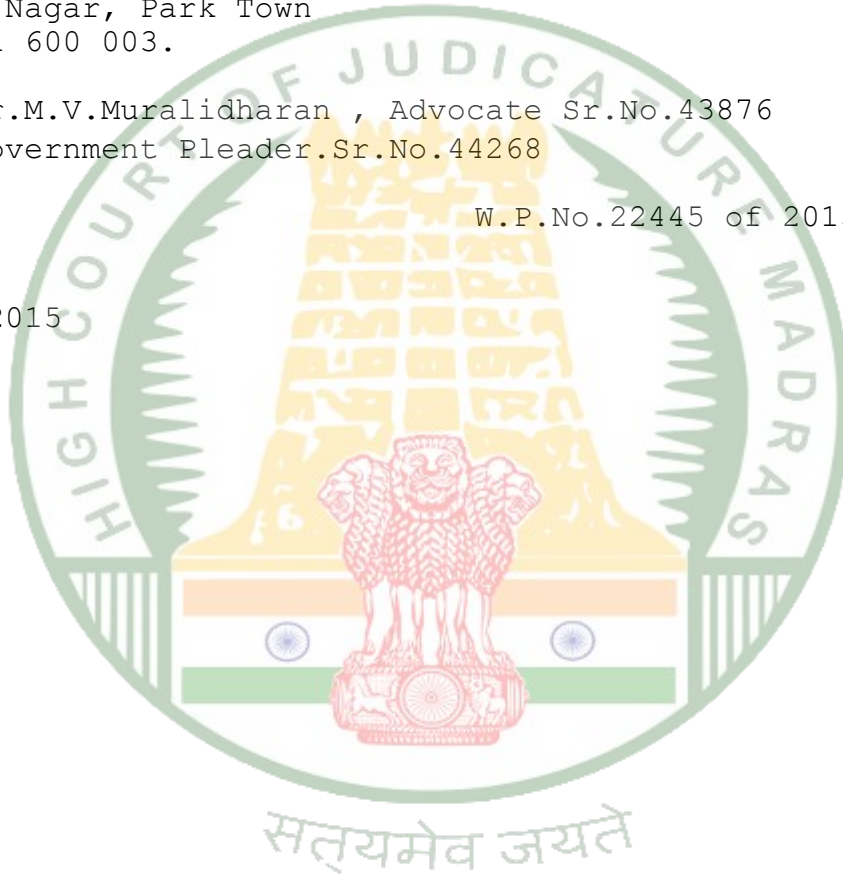
3.The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
V.O.C. Nagar, Park Town
Chennai 600 003.

2 cc to Mr.M.V.Muralidharan , Advocate Sr.No.43876

1 cc to Government Pleader.Sr.No.44268

W.P.No.22445 of 2015

ug(co)
pmk.20.8.2015



WEB COPY