

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.11313 of 2012, W.P.No.11314 of 2012,
W.P.No.11319 of 2012 to W.P.No.11321 of 2012

S.Malliga ... Petitioner in W.P.11313/12
R.Kalyani ... Petitioner in W.P.11314/12
E.Shanthi ... Petitioner in W.P.11319/12
M.Selvam ... Petitioner in W.P.11320/12
K.Vijaya ... Petitioner in W.P.11321/12

Vs.

1. The District Collector
Salem District
2. Indian Council for Child Welfare
Tamil nadu
rep by its General Secretary
No.5, 3rd Main Road West
Shenoy Nagar, Chennai - 600 030
3. Panchayat Union Commissioner
Ayothiyappattnam
Salem District
4. Government Secretary
Social Welfare Department
Secretariat, St. George Fort
Chennai - 9
(R4 - impleaded as per order dated
11.7.2012 in M.P.Nos.1 to 1 of 2012 in
W.P.Nos.11313 & 11314 of 2012 & 11319 to 11321 of 2012)

... Respondents
in all the Petitions

This writ petitions are filed under Article 226 of the Constitution of India praying for the issuance of Writs of Mandamus directing the first respondent to absorb the petitioners' services in the Tamil Nadu Mid-Day Meals scheme on priority basis.

For petitioners : Mr.K.Sakthivel
in all the Petitions

For respondents : Mr.R.Ravichandran
AGP for R1, R2 and R4 in
W.P.Nos.11313 & 11314 of 2012 and
W.P.Nos.11319 to 11321 of 2012
Mr.V.Subbiah
Special Government Pleader
for R3 in W.P.No.11313 & 11314 of 2012
Mr.N.Roofus Abraham for R3
in W.P.Nos.11319 to 11321 of 2012

C O M M O N O R D E R

Since, the issues involved in all the writ petitions are similar in nature, they have been taken up together and a common order is being passed.

2. Heard the learned counsels appearing for the parties concerned.

3. It has been stated that the petitioners had been appointed, as Balasavika, under the Integrated Child Development Scheme of the Central Government, during the year, 1986. As the said scheme was being implemented by the state Government, the District Collector concerned had selected the petitioners and had directed them to submit their joining report, with the Panchayat Union Commissioner, Ayothiyappattinam, Salem District, the third respondent herein.

4. It has also been stated that the Integrated Child Development Scheme had been funded by the Central Government. However, the service conditions of the petitioners were governed by the Rules framed by the state Government, for its employees. The petitioners had continued in service till the year, 2000.

5. The learned counsel appearing for the petitioners had submitted that the petitioners would be entitled to being absorbed, as noon meal organisers, as they possess similar qualifications and the duties carried on by the noon meal organisers.

6. The learned counsel appearing for the petitioners had further submitted that the petitioners are only seeking priority for being employed as noon meal organisers, as and when such selections are made to the said posts.

7. The learned counsel had also pointed out that an order had already been passed to that effect, to consider the similarly placed persons as that of the petitioners, while making appointment to the posts of noon meal organisers.

8. The learned counsel had further submitted that the petitioners would be entitled to the relief prayed for by them, in the above writ petitions, in accordance with the provisions of Articles 14, 19 and 309 of the Constitution of India.

9. The learned counsel appearing for the petitioners had relied on the following decisions in support of his contentions:

1. DIPITIMAYEE PARIDA Vs. STATE OF ORISSA (2008) 10 SCC 687.
2. STATE OF WEST BENGAL Vs. KABERI KHASTAGIR (2009) 3 SCC 68.
3. D.POTHUMALLEE Vs. DISTRICT COLLECTOR (2010) 5 MLJ 46.

10. Per contra, the learned counsels appearing for the respondents had submitted that the appointments of the petitioners were purely temporary in nature. Further, the petitioners had been appointed under the Integrated Child Development Scheme, on consolidated pay, and that they could be removed from service, without any notice, if their service were found to be unsatisfactory.

11. The learned counsels appearing for the respondents had further submitted that the petitioners had no legal right to be enforced. The petitioners had full knowledge of the status of their employment, even at the time of their initial employment. As such, they are estopped from making a claim to be considered for appointments to the posts of noon meal organisers.

12. It has also been stated that the petitioners had not been working, continuously, as claimed by them. They had been terminated from service during the year, 2000. Further, the appointments of the petitioners were not based on any Rules relating to the recruitment. Therefore, the relief prayed for by the petitioners cannot be granted by this Court.

13. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available and in view of the decisions cited supra, this Court is of the considered view that the petitioners have not shown sufficient cause or reason to grant the relief, as prayed for by the petitioners, in the present writ petition.

14. As seen from the records available, it is clear that the appointment of the petitioners were purely temporary in nature. They had not been recruited under any Rule relating to the recruitment. The appointment of the petitioners were only temporary in nature and they had been receiving a consolidated amount of Rs.300/-, per month. The appointment of the petitioners had been made relating to the Integrated Child Development Scheme. As the said scheme had come to an end, the service of the petitioners had also been terminated. As such, it is clear that the petitioners have no right to claim that they should be considered for being appointed, as noon meal organisers. In such circumstances, this Court is of the considered view that the above writ petitions filed by the petitioners are devoid of merits. Hence, the writ petitions are dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To:

1. The District Collector
Salem District

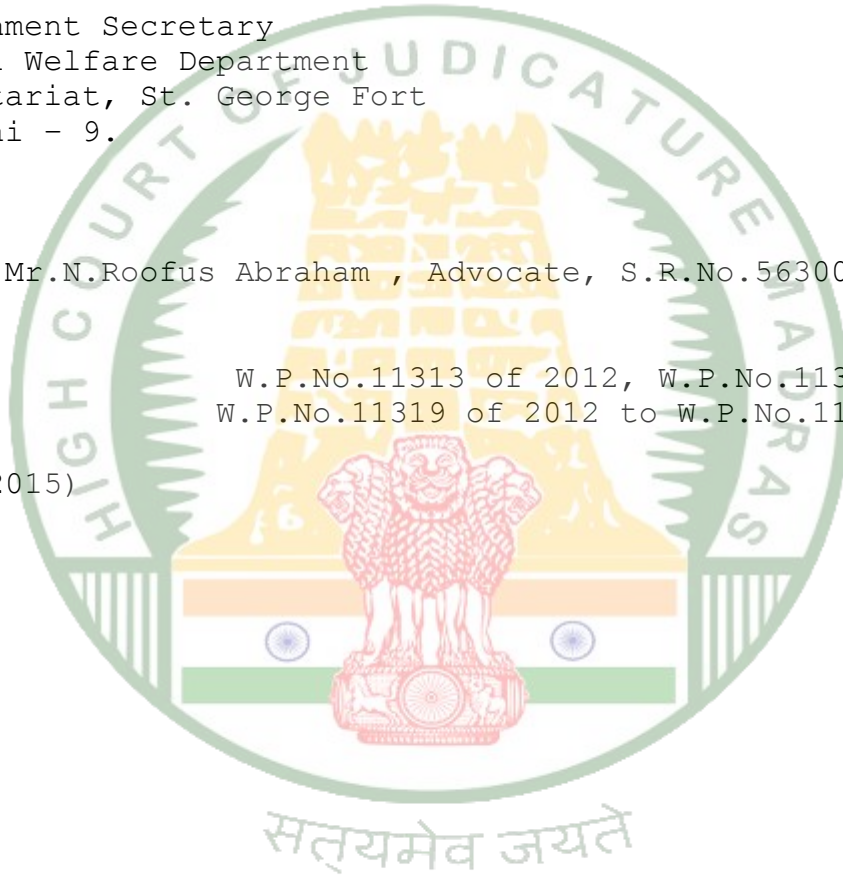
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+3cc's to Mr.N.Roofus Abraham , Advocate, S.R.No.56300 to 56302

W.P.No.11313 of 2012, W.P.No.11314 of 2012,
W.P.No.11319 of 2012 to W.P.No.11321 of 2012

PA(CO)
CA(24/11/2015)



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