

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38665 of 2016
and W.M.P.No.33119 of 2016

G.Jaya

.. Petitioner

Vs.

1 The Secretary to the
Government Social Welfare &
Nutritious Meal
Programme Department
Fort St. George
Secretariat Chennai-600 009

2 The Commissioner of Social
Welfare Ezhilagam Chepauk
Chennai-600 005

3 The District Collector
Thiruvarur Thiruvarur District

4 The Block Development Officer
Muthupettai Union
Thiruthuraipoondi Taluk
Thiruvarur District

.. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus Directing the respondents to promote the petitioner from the Cook Assistant to Cook based on the G.O.Ms.No. 3 issued by the 1st respondent department dated 07.01.2016 by considering the representation of the petitioner dated 09.09.2016.

For Petitioner : Mr.V.Kasinatha Bharathi
For Respondents : Mr.N.Srinivasan,
Addl. Govt. Pleader,
for R1 to R3
Mr.A.N.Thambidurai,
for 4

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to promote her from the post of Cook Assistant to the post of Cook based on G.O.Ms.No.3 issued by the first respondent department dated 7.1.2016 by considering her representation dated 9.9.2016.

3. It is the case of the petitioner that she is working as a Cook Assistant from 5.11.2007 at Panchayat Union Middle School, Jambavanodai Panchayat. She is a physically handicapped person with a disability of 65% and she is also a widow and hence, she is having the priority as per G.O.No.181 issued by the Government of Tamil Nadu. In the said school, the Cook had retired due to age factor on 30.6.2009. Since nobody was appointed in the said post, the petitioner is looking after the work of Cook also from the date of retirement of the Cook. But, she is receiving only the salary of Cook Assistant. While so, one Venkatamma and 22 other Cook Assistants, who are similarly placed persons like that of the petitioner, filed a writ petition before this Court in W.P.No.22255 of 2012 seeking promotion from the post of Cook Assistants to the post of Cook and the said writ petition was allowed, against which a writ appeal was filed by the Government in W.A.No.1402 of 2013. In the meantime, the said Venkatamma and others moved a contempt petition against the Collector of Krishnagiri and during the pendency of the said contempt petition, they were promoted as Cook from the post of Cook Assistants. Thereafter, the Social Works Department issued G.O.Ms.No.3 dated 7.1.2016 by promoting all the Cook Assistants to Cook. Based on the said G.O., the petitioner approached the fourth respondent on several occasions requesting him to promote her to the post of Cook. But, her claim was not considered. Finally, she sent a representation dated 9.9.2016 to the respondents seeking promotion to the post of Cook based on G.O.Ms.No.3 dated 7.1.2016. Since the same was also not considered, left with no other alternative, the petitioner has come up with the present writ petition.

4. I have heard the learned counsel appearing for the petitioner, learned Additional Government Pleader, who has taken notice on behalf of the respondents 1 to 3 and the learned counsel, who has taken notice on behalf of the fourth respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the third respondent to consider the

representation of the petitioner dated 9.9.2016 seeking promotion to the post of Cook and pass appropriate orders, on merits and in accordance with law and also in the light of G.O. (Ms) No.3 Social Welfare and Nutritious Meal Programme Department dated 7.1.2016, within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sbi

To

- 1 The Secretary to the
Government Social Welfare & Nutritious Meal
Programme Department Fort St. George
Secretariat Chennai-600 009
- 2 The Commissioner of Social
Welfare Ezhilagam Chepauk Chennai-600 005
- 3 The District Collector
Thiruvarur Thiruvarur District
- 4 The Block Development Officer
Muthupettai Union Thiruthuraipoondi Taluk
Thiruvarur District

+1cc to Mrs. Ln.V. Kasinatha Bharath, Advocate, S.R.No.63374
+1cc to the Government Pleader, S.R.No.63944

SM(CO)
EU(11/11/2016)

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W.P.No.38665 of 2016