

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.26288 of 2017
and
W.M.P.No.27947 of 2017

J.Suguna

... Petitioner

Vs.

1. The Secretary to Government,
Social Welfare Department,
Fort St.George, Chennai - 9

2. The District Collector,
Villupuram District, Villupuram.

2. The Child Development Project Officer,
Child Development Scheme Office,
Kandamangalam Union Office,
Kandamangalam, Villupuram Taluk.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents 2 and 3 to appoint the petitioner to the post of Primary Anganwadi Teacher in centre No.463, C.Kallipattu, Kandamangalam Panchayat Union, Villupuram District on compassionate grounds.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

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O R D E R

This writ petition is filed seeking a Writ of Mandamus to direct the respondents 2 and 3 to appoint the petitioner to the post of Primary Anganwadi Teacher in Centre No.463, C.Kallipattu, Kandamangalam Panchayat Union, Villupuram District, on compassionate grounds.

2. The case of the petitioner is that the petitioner's mother, namely, Thilagavathy, who was employed as helper, in Kumarapalayam Village Anganwadi, passed away on 02.10.2015, while in service. The Tahsildar, Vikravandi, also issued integrated eligibility certificate to the petitioner on

04.11.2016 certifying that the petitioner is eligible for compassionate appointment. On 16.11.2016, the petitioner gave an application along with requisite documents to the respondents 2 and 3 seeking compassionate appointment. In the meanwhile, on 30.08.2017, the petitioner also applied for the post of Primary Anganwadi Teacher for Centre No.463, C.Kallipattu, Kandamangalam Panchayat Union in Villupuram District, for which interview call letter was also issued on 31.08.2017 calling upon the petitioner to take part in the said selection process. Since her application for appointment on compassionate ground has not been considered, the petitioner has submitted a representation dated 04.09.2017 to the 2nd respondent to consider and pass orders and moreover, her representation has not been considered, hence this Writ Petition is filed.

3. The learned Special Government Pleader appearing for the respondents submitted that the post of Anganwadi Worker is not a civil post and that the case of the petitioner will be considered on merits.

4. Heard both sides.

5. I fully agree with the submission made by the learned Special Government Pleader appearing for the respondents that the post of Anganwadi Worker is not a civil post, as per the Judgment of the Apex Court reported in (2007) 11 Supreme Court Cases 681 (State of Karnataka and Others Vs. Ameerbi and Others). It is relevant to extract Paragraph Nos.13 and 20 thereof for better appreciation:

"13. The posts of anganwadi workers are not statutory posts. They have been created in terms of the scheme. It is one thing to say that there exists a relationship of employer and employee by and between the State and anganwadi workers but it is another thing to say that they are holders of civil post.

20. Anganwadi workers, however, do not carry on any function of the State. They do not hold post under a statute. Their posts are not created. Recruitment rules ordinarily applicable to the employees of the State are not applicable in their case. The State is not required to comply with the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. No process of selection for the purpose of their appointment within the constitutional scheme exists. We do not think that the said decision has any application in the instant case."

T.RAJA, J.,

6. In view of the above, the respondents are directed to consider the case of the petitioner only on merits and in accordance with law, as expeditiously as possible.

7. With the above direction, the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Secretary to Government,
Social Welfare Department,
Fort St.George, Chennai - 9
2. The District Collector,
Villupuram District, Villupuram.
2. The Child Development Project Officer,
Child Development Scheme Office,
Kandamangalam Union Office,
Kandamangalam, Villupuram Taluk.

+1cc to M/s.K.S.Kumar, Advocate, S.R.No.72159

W.P.No.26288 of 2017
and
WMP No.27947 of 2017

AR IV
CA(08/11/2017)

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