

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

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THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. Nos.19590 and 19591 of 2014  
and MP.Nos.1 to 3 and 1 to 3 of 2014

M.Kavitha ..... Petitioner in WP.No.19590/2014  
Kuppammal ..... Petitioner in WP.No.19591/2014  
Vs.

- 1.The District Collector,  
Krishnagiri District,  
Krishnagiri.
- 2.The Panchayat Union Commissioner,  
Kaveripattinam,  
Krishnagiri District.
- 3.The Chairman,  
Kaveripattinam Panchayat Union,  
Kaveripattinam,  
Krishnagiri District. .... Respondents

Common Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the orders in Pro.Na.Ka.No.13921/2012/X2 dated 12.09.2012 of the first respondent and the consequential endorsement No.2113/2009/A6 dated 13.09.2012 of the 2<sup>nd</sup> respondent, quash the same and issue consequential directions to the respondents to reinstate the petitioner in service with all consequential benefits.

For Petitioner in both W.Ps : Mr.D.Baskar

For Respondents in both W.Ps: Mr.R.Vijaya kumar, AGP for R1

C O M M O N O R D E R

The order of cancellation of appointment dated 12.09.2012 issued to the writ petitioner by the 1<sup>st</sup> respondent and consequential endorsement dated 13.09.2012 issued by the second respondent are under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as Cook Assistant in the Puratchi Thalaivar M.G.R. Nutritious Meals Center at Panchayat Union Elementary School, Pannanthur, Kaveripattinam Panchayat Union, in proceedings dated 02.11.2007. Accordingly, the writ petitioner was working in the said post. The 2<sup>nd</sup> respondent/Panchayat Union Commissioner issued an order in proceedings dated 21.01.2012 stopping disbursement of salary temporarily to 9 Cooks and 16 Cooks Assistants including the petitioner in Kaveripattinam Union, in view of the audit objection raised in Audit report for the year 2008 - 2009 in relation to the allegation of irregular appointments made in contravention to the regular Recruitment Rules. 3. The 2<sup>nd</sup> respondent in the order dated 21.01.2012 has sent a proposal to the Government for regularisation of the service of all the 9 Cooks and eleven Cook assistants. In this regard, the writ petitioner along with others filed WP.No.11017 and 12353 of 2012 and by way of interim order, the salary due to the petitioner were paid. Thereafter, the District Collector, Kaveripattinam / 1<sup>st</sup> respondent issued the order impugned in proceedings dated 12.09.2012. On perusal of the order, it is clear that for the noon meal scheme during the year 2007 - 2008, in Kaveripattinam Union, 9 Cooks and 16 Cook Assistants were appointed based on bogus appointment orders issued by the Block Development Officer. It is made clear by the District Collector that the appointment of 9 cooks and 16 Cook Assistants were made in contravention with the service rules in force and their appointments were made by fake bogus appointment orders at the instance of one Mr.Amaravel, Block Development Officer. Thus, an audit objection was raised and thereafter, action was taken to oust the service of 9 Cooks and 16 Cook Assistants and disciplinary action also was initiated against the said Amaravel, Block Development Officer.

4. The order of appointment was perse illegal in view of the fact that 9 Cooks and 16 Cook Assistants were appointed based on bogus appointment orders. Therefore, the question of issuing any notice does not arise at all. In the case on hand, it is categorically enumerated that the appointment orders itself was bogus and not issued by a competent authority in accordance with the rules in force. Thus, the question of providing any notice or opportunity does not arise at all. Since, the order of appointment is fake one and appointments are made in collusion with one Mr.Amaravel, Block Development Officer, the District Collector has taken action based on the audit objection in this regard. Thus, there is no irregularity or infirmity in the order passed by the District Collector, Kaveripattinam in proceedings dated 12.09.2012. The rule contemplated for initiating disciplinary action are available only for the employees who were appointed in accordance with

rules. When the appointment itself was based on fake bogus appointment orders, the question of providing any opportunity to such employees does not arise at all. Since issuing bogus appointment orders is an offence, the question of continuance of the writ petitioner in service also deserves no consideration at all. Thus, this Court is of the opinion that the actions of the 1<sup>st</sup> respondent in this regard is in accordance with law and there is no infirmity.

5. The learned Additional Government Pleader also brought to the notice of this Court that the 2<sup>nd</sup> respondent in his counter affidavit has categorically stated that the powers of appointing Cooks and Cook Assistants vests with the Personal Assistant (N.M.P) to the District Collector. Hence the appointment orders issued by the Block Development Officer / Commissioner Panchayat Union Office, Kaveripattinam were perse illegal. In this regard, disciplinary action under the Tamil Nadu Civil Services (Discipline and Appeal Rules) has been initiated against the said Block Development Officer. In view of this, no further adjudication needs to be undertaken and the writ petitioner has no right to continue in service, in view of the fact that the order of appointment issued by the Block Development Officer was a fake one and not in accordance with the service rules in force.

6. Accordingly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,  
Krishnagiri District,  
Krishnagiri.

2.The Panchayat Union Commissioner,  
Kaveripattinam,  
Krishnagiri District.

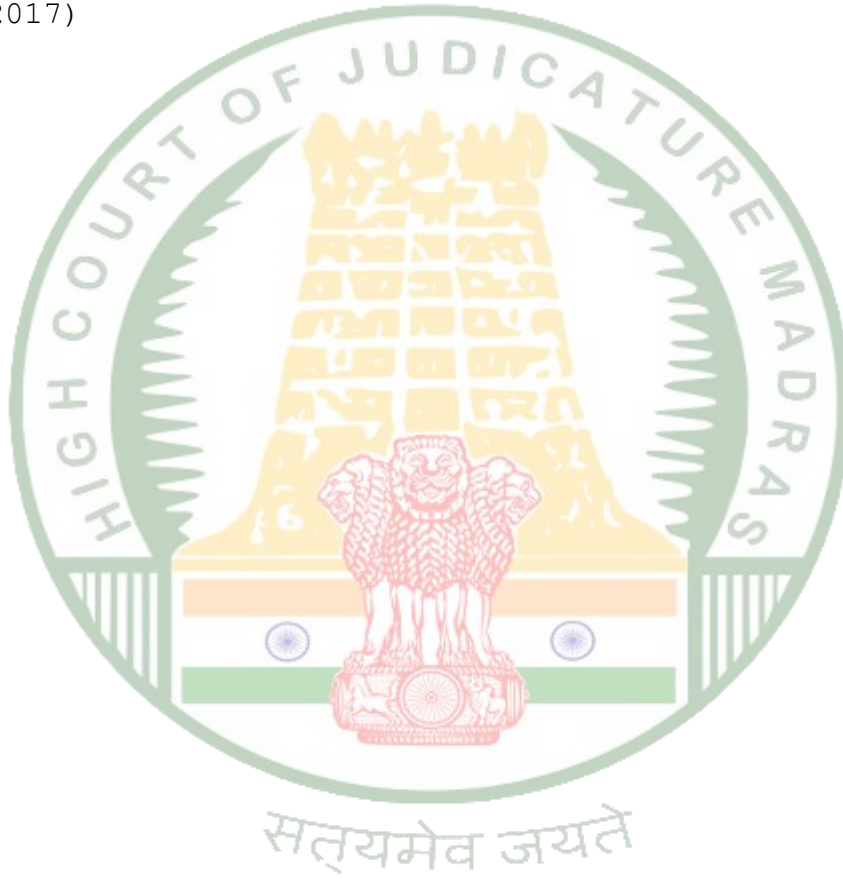
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3.The Chairman,  
Kaveripattinam Panchayat Union,  
Kaveripattinam,  
Krishnagiri District.

+1cc to Mr.THAMARAI SEHAN, Advocate, S.R.No. 74922/17

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