

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.7.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Writ Appeal No.2728 of 2012

K.Lakshmi .. Appellant

Vs.

1. The District Collector of Cuddalore
District Collectorate
Cuddalore.

2. The Planning Officer
Office of the Kumaratchi Child Development
Kumaratchi, Chidambaram Taluk
Cuddalore District.

3. Ananthakumari ... Respondents

Appeal under Clause 15 of the Letters Patent directed against the order dated 31.3.2011 made in W.P.No.8155 of 2011.

Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of certiorarified mandamus to call for the records of the 1st respondent made in Se.Mu.Na.Ka. No. 2030-A1-2010-1 dt 26.2.2011 and quash the same and consequently direct the respondents 1 and 2 to appoint the petitioner to the post of Anganwadi Staff at No.118 Nanjalur II Chidambaram Taluk Cuddalore District.

For Appellant : Mr.R.Agilesh

For Respondents 1 & 2 : Mr.V.Jayaprakash Narayanan
Spl.G.P.

For Respondent-3 : Mr.R.Ravichandran

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

This appeal is directed against the order dated 31.3.2011 made in W.P.No.8155 of 2011.

2. Heard the learned counsel appearing for the appellant, learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

3. According to the appellant, she applied for the post of Anganwadi Staff at Ward No.118, Nanjalur II, Kumaratchi. Thereafter, she was called for interview and she appeared for interview along with requisite certificates. Further, she had satisfied all the norms prescribed for selection to the post of Anganwadi Staff. However, the third respondent was selected for that post. Contending that the appointment of the third respondent was in violation of Clauses 7 and 8, which stipulated that the Anganwadi Staff should be selected within 3 kilometers from home and should live in the vicinity of Nanjalur Village, as the third respondent was residing 15 kilometers away from Nanjalur Village, the appellant filed writ petition.

4. The learned single Judge, taking note of the decision of a Division Bench in P.Vasantha and Others v. The District Collector, Dindigul District, Dindigul [2007 (6) MLJ 402], and holding that the appellant cannot claim preference over the third respondent based on proximity of residence, dismissed the writ petition, forcing the appellant to file this appeal.

5. In this regard, it is pertinent to note that in the Guidelines issued regarding eligibility of candidates for appointment, Clauses 7 and 8 stipulate that the residence of the Anganwadi Staff to the Anganwadi Centre should be within three kilometers and that Anganwadi Assistants should be of local residents. Thus, it is clear that a candidate will become eligible for appointment only if the candidate resides within three kilometres of the Anganwadi Centre.

6. Further, Clause 4.8 in G.O.(Ms)No.110, Social Welfare and Nutritious Meal Programme (SW7) Department, dated 14.5.2012, specifically provides for Residency and it reads as under:

"The Government direct that the applicant should be the resident of the same hamlet. If no suitable/eligible candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, the eligible candidates are not available the candidates from the neighbouring panchayats located within 10 kms. shall be considered for the appointment of Anganwadi Helper.

In respect of Anganwadi Centres in the Municipality/Corporation area, the applicant

residing in the same ward shall be considered. If no eligible candidate from the same ward is available, the candidates from nearby ward shall be considered. Even then the eligible candidates are not available candidates from the Division shall be considered for appointment of Anganwadi Helper."

7. A reading of the above would disclose that the candidate should be the resident of the same Village and only if no candidate, who is resident of the same village, is available, eligible candidates from the neighbourhood village can be considered for appointment.

8. In the case on hand, the appellant is the resident of Nanjalur village. But, the third respondent was not the resident of Nanjalur village, but, she was a resident of Athipattu-Alampadi Village, which is 15 kms away from the Anganwadi Centre, at the time of her appointment. However, according to the second respondent, the third respondent had shifted her residence, after her appointment, which is within five kilometres of the Anganwadi Centre.

9. Though the learned Special Government Pleader relied upon G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (SW2) Department dated 18.8.2010, since the said Government Order relates to Noon Meal workers and the case on hand relates to Anganwadi workers, the same is not applicable to the instant case.

10. Further, the reason stated by the second respondent in their counter for not considering the appellant for appointment that the appellant did not perform well in the interview appears to be incredible, when the fact remains that no mark has been prescribed in the Guidelines, for the candidates to be obtained in the interview to qualify themselves for appointment.

11. For the reasons stated in the preceding paragraphs, it is apparent that the appointment of the third respondent is contrary to the norms prescribed in the Guidelines for appointment and that the above fact has not been taken note of by the learned single Judge. Therefore, we do not find any reason to sustain the order of the learned single Judge and accordingly, it is set aside. The respondents 1 and 2 are directed to appoint the appellant, in the place of the third respondent, within a period of three months from the date of receipt of a copy of this order. However, we make it clear that the Government is at liberty to accommodate the third respondent elsewhere.

12. The writ appeal is allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The District Collector of Cuddalore
District Collectorate, Cuddalore.
2. The Planning Officer
Office of the Kumaratchi Child Development
Kumaratchi, Chidambaram Taluk
Cuddalore District.

+1cc to Mr.T.Dhansekar, Advocate, S.R.No.54783
+1cc to Mr.R.Ravichandran, Advocate, S.R.No.54727
+1cc to the Government Pleader, S.R.No.54595

GMI (CO)
GN(31/08/2017)

W.A.No.2728 of 2012.

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