



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 26.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.61 of 2011 in

WP(MD)No.12514 of 2009

K.Anita

.. Appellant/Petitioner

Vs.

1. The District Collector,
Ramanathapuram,
Ramanathapuram District.

2. The Commissioner,
R.S.Mangalam Panchayat Union,
Ramanathapuram District.

3. K.Punitha

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order passed in W.P.No.12514 of 2009 dated 07.09.2010 and allow the writ appeal.

Prayer in WP(MD). 12514/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in Na.Ka.NO. W1/43890/2008 dated 05/11/2009 and quash the same and consequently direct the respondents 1 and 2 to appoint the petitioner as Noon Meal Organizer in the Panchayat union elementary school, Peraiyur.

For Appellant

: Mr.V.Panneer Selvam

For M/s.C.S.Associates

For Respondent No.1

: Mr.T.S.Mohammed Mohideen

For Respondent No. 2

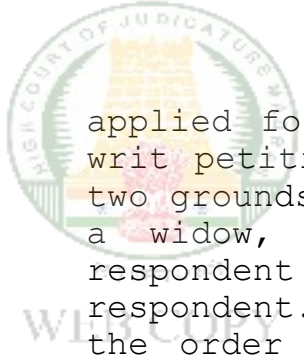
: No Appearance

JUDGMENT

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J)

The unsuccessful writ petitioner has filed this intra court appeal questioning the order dated 07.09.2010 made in W.P.(MD) No.12514 of 2009.

2. The case of the appellant is that she has passed 12th standard and had registered her name in the employment exchange. Her husband passed away on 01.06.2006. She is the resident of Peraiyur in Kallikudi Panchayat. When vacancy arose in the post of Noon-Meal Organiser in the Panchayat Union Primary School, she



applied for the same under preferential category. Eventhough the writ petitioner was entitled to be considered for the said post on two grounds namely, being the resident of the same village and being a widow, she was not given appointment. Instead the first respondent issued the order dated 05.11.2009 in favour of the third respondent. Hence, she filed W.P.(MD)No.10548 of 2008 for quashing the order dated 05.11.2009, appointing the third respondent and sought appointment as Noon-Meal Organiser in the said Panchayat Union for herself.

3. The learned Single Judge declined to grant relief to her for two reasons.

3.1. Granting preferential employment on the ground of residence would be unconstitutional.

3.2. Secondly, the status of the writ petitioner as a widow can be considered only when other things are equal.

4. In the present case, the third respondent herein, has scored higher marks. In that view of the matter, the writ petition came to be dismissed.

5. We see no reason to take a different view what was view taken by the learned Single Judge. However, it is open to the appellant herein to apply for the said post of Noon-Meal Organiser as and when regular recruitment takes place. Since the appellant is a widow, she is certainly entitled to be given preference, provided other things are equal.

6. With this observation, this writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram,
Ramanathapuram District.
2. The Commissioner,
R.S.Mangalam Panchayat Union,
Ramanathapuram District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 68632
+ 1 CC TO Mr.R.VELMURUGAN, ADVOCATE IN SR No. 68653
+ 1 CC TO Mr.V.PANNEERSELVAM, ADVOCATE IN SR No. 68205

MRN/TA/PSD

TE/GT/SAR-II : 09/08/2017 : 2P/6C

Judgment made in
W.A.(MD)No.61 of 2011 in
WP(MD)No.12514 of 2009
26.07.2017