

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7249 of 2014
and
M.P.Nos.2 & 3 of 2014

Boologam

..Petitioner

vs

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Block Development Officer,
Kaveripattinam,
Krishnagiri Taluk and District.

3.The District Educational Officer,
Krishnagiri District,
Krishnagiri.

4.The Headmaster,
Velampatti Government Higher Secondary
School,
Velampatti,
Pochampalli Taluk,
Krishnagiri Taluk.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling upon the proceedings of the first respondent 10.02.2014 made in Na.Ka.No.13921/2012/X1 and another order dated 12.09.2012 made in Na.Ka.No.13921/2012/X9 and the consequential order of the second respondent Na.Ka.No.2913/2009/A-6 dated 13.09.2012 and to quash the same and direct the respondents to reinstate the petitioner with continuity of service within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.C.Prabakaran

For Respondents: Mr.D.Raghu, GA for R1, R3 & R4
Mr.P.Sanjay Gandhi for R2

O R D E R

The order of cancellation of appointment and the termination of service of the writ petitioner issued by the District Collector is under challenge in this writ petition.

2.The writ petitioner was appointed as Noon Meal Cook by the Block Development Officer at Kaveripattinam. The appointment was made by the second respondent in proceedings dated 02.11.2007 and accordingly, the writ petitioner was working as Noon Meal Cook for more than six years in the fourth respondent Government Higher Secondary School. Initially, the salary was paid to the writ petitioner and subsequently, it was not credited in her account without any valid reasons. Thus, the writ petitioner approached the respondents and thereafter, submitted a representation on 30.09.2013, seeking certain informations. It was informed by the authorities that the Block Development Officer has no authority to issue an order of appointment for the post of Noon Meal Cook and the Government has not granted any such delegation of powers or authorization, enabling the Block Development Officer to issue an order of appointment. Thus, the appointment of the writ petitioner was irregular and contrary to the rules in force. When the matter was sent for the approval of the District Collector, the District Collector passed an order in proceedings dated 10.02.2014, stating that the Block Development Officer had irregularly appointed the petitioner in the Post of Noon Meal Cook in the fourth respondent Government Higher Secondary School and the Government on the Head of the Department have not issued any such authorization or delegation of powers in favour of the Block Development Officer to issue an order of appointment. This apart, suitable disciplinary actions were also issued against the concerned Block Development Officer under Rule 17(b) of the Tamil Nadu Civil Services(Discipline and Appeal)Rules, in view of the fact that the initial appointment of the writ petitioner was irregular and the order of appointment was issued by an incompetent authority without any jurisdiction. The District Collector canceled the order of appointment in proceedings dated 10.02.2014 and accordingly, the writ petitioner was relieved from service. Challenging the said impugned order, the present writ petition has been filed.

3.The writ petitioner has stated that the initial appointment of the writ petitioner was made by the Block Development Officer and an order was passed to that effect and the writ petitioner was permitted to join duty. Initially, the salary was paid to the writ petitioner and subsequently, the salary paid to the writ petitioner was not credited in her

account. When she approached the authorities, they informed the writ petitioner that the initial appointment made was irregular. The writ petitioner pleads that she is innocent and she is no way connected with any such irregularity. She participated in the process of interview and selected by the Block Development Officer and an order of appointment was issued. When the writ petitioner must be allowed to continue in service.

4.This Court is of an opinion that when an order of appointment had been issued by an incompetent authority, having no jurisdiction and the said order has been sent for the approval of the District Collector and the District Collector in turn, cancelled the order of appointment on the ground that there is no delegation of power or authorization issued by the Government, permitting the Block Development Officer to issue an order of appointment. Thus, the initial appointment of the writ petitioner was irregular and not in accordance with the recruitment rules in force. Further, the Block Development Officers have not empowered or authorized to issue an order of appointment for the post of Noon Meal Cook in Government Higher Secondary School or in any other School.

5.This being the legal position, this Court is of an opinion that the order of appointment issued in favour of the writ petitioner was an illegal one and therefore, it is left open to the writ petitioner to participate in the open competitive process, whenever the recruitment notification is issued. However, in respect of the illegal appointment, no relief can be granted and accordingly, the order passed by the respondent is in accordance with law and there is no infirmity as such.

6.Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

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Sub Assistant Registrar

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To

1.The District Collector,
Krishnagiri District,
Krishnagiri.

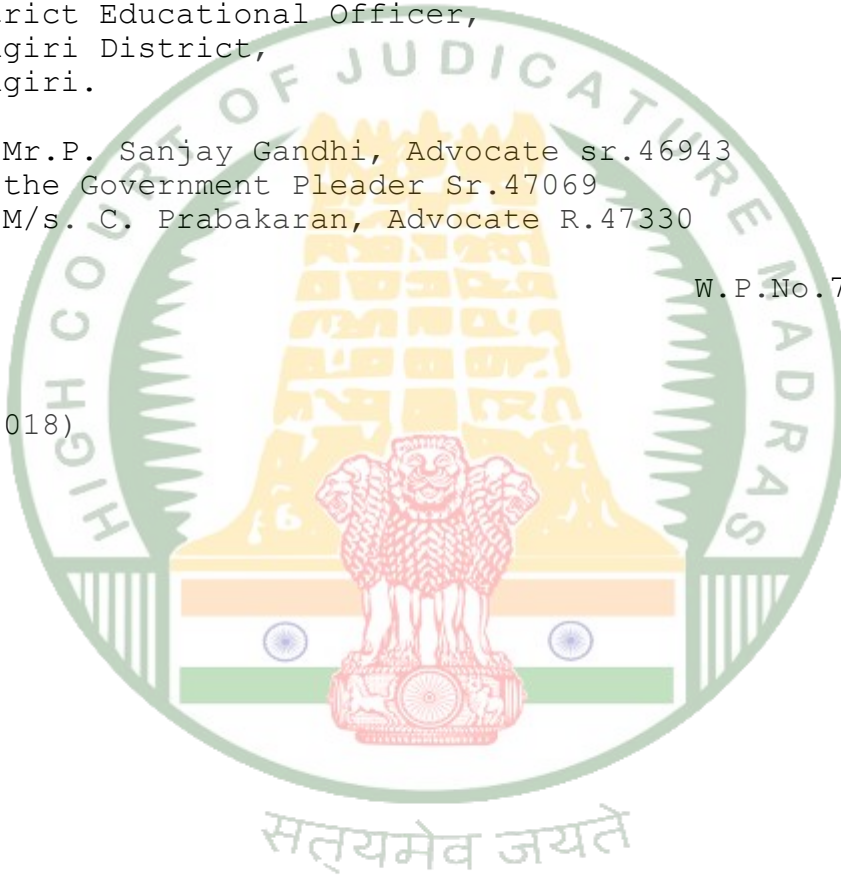
2.The Block Development Officer,
Kaveripattinam,
Krishnagiri Taluk and District.

3.The District Educational Officer,
Krishnagiri District,
Krishnagiri.

+ 1 cc to Mr.P. Sanjay Gandhi, Advocate sr.46943
+ 1 cc to the Government Pleader Sr.47069
+ 1 cc to M/s. C. Prabakaran, Advocate R.47330

W.P.No.7249 of 2014

GP(CO)
EU(01/08/2018)



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