

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 22.11.2018

Pronounced on: 05.12.2018

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.20440 of 2012

K.M.Geetha

.. Petitioner

Versus

1. The District Collector,
Thiruvallur District,
Thiruvallur.

2. The Commissioner,
Thirutani Panchayat Union,
Thirutani.

3. N.Prema

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the order passed by the 2nd respondent herein in their proceedings in Na.Ka.No.2051/2012/Aa5, dated 24.07.2012 by terminating the petitioner on the basis of the order passed by the 1st respondent in their proceedings in Na.Ka.No.37878/10/NMP.1, dated 24.07.2012 and quash the same and consequently direct the 1st respondent to continue the service of the petitioner as Noon Meal Organiser.

For Petitioner :: Mr.R.Dhanapal Raj

For Respondents :: Mrs.Sri Jayanthi for R1,
Special Government Pleader.

No appearance for R2.
Mr.S.Ramesh for R3

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O R D E R

The writ petition had been filed in the nature of Certiorarified Mandamus calling for the records of the 2nd respondent namely the Commissioner, Thirutani Panchayat Union, Thirutani. In proceedings Na.Ka.No.2051/2012/Aa5 dated 24.07.2012, terminating the petitioner on the basis of the order passed by the 1st respondent, the District Collector, Thiruvallur

District, in proceedings Na.Ka.No.37878/10/NMP.1, dated 24.07.2012, and quash the same and direct the 1st respondent to continue the service of the petitioner as Noon Meal Scheme Organiser.

2.The writ petitioner claimed that she was qualified to be appointed as Noon Meal Scheme Organiser. She had applied for such posting and was also appointed as a Noon Meal Scheme Organiser by the District Collector, Thiruvallur, through the selection committee by order dated 03.01.2011, passed in proceedings Na.Ka. No.37878/2010/NMP1. The petitioner joined duty on 11.01.2011. She had been working as a Noon Meal Scheme Organiser.

3.The 3rd respondent N.Prema, had filed W.P.No.653 of 2011 challenging this appointment. According to the 3rd respondent, the appointment of the petitioner was in contradiction to the guidelines issued by the Government in its order in G.O.M.S.No.918, dated 03.01.1989 and G.O.M.S.No.78 dated 30.06.2008. The petitioner herein joined issue with the 3rd respondent by filing a counter affidavit in W.P.No.653 of 2011. This Court had passed final orders in W.P.No.653 of 2011 on 05.01.2012. Pursuant to that judgment, the 1st respondent namely the District Collector, Thiruvallur District, revisited the selection of the petitioner herein and later by order dated 24.07.2012, set aside the selection of the petitioner and appointed the 3rd respondent as Noon Meal Scheme Organiser. Aggrieved by that order of the District Collector and the consequential order was passed by the 2nd respondent namely the Commissioner Thirutani Panchayat Union, the petitioner had filed the present writ petition.

4.Heard, Mr.R.Dhanapal Raj, learned Counsel for the petitioner, Mrs.Sri Jayanthi, learned Special Government Pleader writs for the 1st respondent and also Mr.S.Ramesh, learned Counsel for the 3rd respondent.

5.The learned Special Government Pleader stated that the eligibility conditions for Noon Meal Scheme Organiser had been discussed in W.P.No.653 of 2011. It had been observed by this Court that when the eligibility conditions are equal, one factor that will be taken into consideration is whether one of the candidates is a widow or a destitute. If a candidate is a widow or a destitute, then preference must be given to such candidate. This Court had found in W.P.No.653 of 2011 that the 3rd respondent was a widow and set aside the selection of the petitioner and consequently directed the 1st respondent namely the District Collector to consider the applications of all the

candidates afresh and pass orders in accordance with the Government guidelines. The District Collector, who is the 1st respondent, thereafter re-examined the entire issues.

6.It was found that the petitioner K.M.Geetha, was born on 01.05.1976. She had studied 10th standard. She belongs to backward class community. She has an annual income of Rs.24,000/-. She resides within 5 kilometers from the place where she is to be appointed as Noon Meal Scheme Organiser. She is married. She does not have any relative in Government service. The eligibility of the 3rd respondent N.Prema, was also examined. The 3rd respondent was born on 15.04.1984. She had also passed 10th standard. She also belongs to backward class community. Her annual income was also Rs.24,000/-. However, she was a resident of the village itself. Moreover, she was also a widow. It was found that her husband had died in a motor accident. That she was a widow is a fact admitted by all concerned. That a widow has to be given a preference as a rule, in accordance with the Government guidelines is also an admitted fact. Consequently, the 1st respondent has passed the impugned order appointing the 3rd respondent herein as Noon Meal Scheme Organiser, instead of the petitioner herein.

7.The learned Counsel for the petitioner stated that she was also eligible for the post of Noon Meal Scheme Organiser. However, the crucial aspect was that the 3rd respondent was a widow and was also a resident of the very same village. These two aspects deserve favourable consideration and it is on this basis that the 1st respondent passed an order appointing the 3rd respondent as Noon Meal Scheme Organiser. I find no infirmity in the said order. The entire order had been passed after setting out in a tabular column the comparative eligibility criteria satisfied by each one of the candidates. Thereafter, it had been mentioned by the 1st respondent that it had been determined as a fact, the 3rd respondent is the resident of the village itself and that she was a widow. Consequently, the earlier order appointing the writ petitioner was cancelled and the 3rd respondent was appointed as Noon Meal Scheme Organiser.

8. I find no merits in the writ petition.

9.However, the learned Counsel for the petitioner stated that the petitioner had filed another writ petition in W.P.No.8576 of 2017, which is pending before this Court. That writ petition had been filed challenging the age criteria fixed for appointment of a Noon Meal Scheme Organiser. In the present writ petition the only aspect considered was the eligibility

criteria of the petitioner vis-a-vis the 3rd respondent and the two factors which swung the issue in favour of the 3rd respondent was that she was a resident of the village and she was a widow.

10.It is therefore made clear that W.P.No.8576 of 2017 would have to be heard and decided independently of this order. With these observations the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msvm/vkr

To

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Commissioner,
Thirutani Panchayat Union,
Thirutani.

+1cc to Mr.S.Ramesh, Advocate, S.R.No. 84567
+1cc to Mr.R.Dhanalpal Raj, Advocate, S.R.No. 83809
+1cc to the Government Pleader, S.R.No. 84567

W.P.No.20440 of 2012

RSV(CO)
GN(28/01/2019)

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