

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2018

CORAM

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

W.P.No.11027 of 2015

S.C.Lakshmi

..Petitioner

vs

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Block Development Officer(Village Panchayat)
Bargur, Krishnagiri.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the order in Pro.Na.Ka.No.28335/2014/X.1 dated 20.01.2015, quash the same and issue consequential direction to the first respondent to consider the petitioner's claim for appointment as Cook/Cook Assistant in the existing vacancy at Thoppur or in any other Centre in Kaveripattinam Union.

For Petitioner : Mr.R.Thamaraiselvan
For Respondents : Mr.M.Elumalai, GA

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 Cook by the 2nd respondent / Block Development Officer during the year 2012 accordingly, the writ petitioner was working as Cook for more than two years in the second respondent Union. 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 19.08.2014, seeking certain informations. It was informed by the authorities that the 2nd respondent/Block Development Officer has no authority to issue an order of appointment for the post of Cook Helper 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 20.01.2015, stating that the Block Development Officer had irregularly appointed the petitioner in the Post of Cook 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 20.01.2015 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 Block Development Officers have not empowered or authorized to issue an order of appointment for the post of Cook in the Panchayat Union or in any other Union.

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.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Block Development Officer(Village Panchayat)
Bargur, Krishnagiri.

+1 CC to Govt. Pleader sr 48023.

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SP(27/07/2018)

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