

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23454 of 2008

and

M.P.No.2 of 2008 & M.P.No.1 of 2009

P.Madhammal

... Petitioner

Vs.

1. Child Welfare Officer
Office of the Child Welfare Centre
Kaveripattinam, Krishnagiri District.

2. District Collector
Krishnagiri District,
Krishnagiri.

3. M.Saravana ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.1088/2007/A1 dated 05.09.2008 on the file of the 2nd respondent and quash the same and direct the respondents 1 & 2 herein to appoint the petitioner to the post of Assistant in the Child Welfare Centre (Anganvadi) at Periyakoothampatti Village, Krishnagiri District under the control of the 1st respondent herein.

For Petitioner : Mr.S.Sadasharam

For R1 & R2 : Mr.R.S.Selvam
Government Advocate

For R3 : Mr.V.R.Shanmuganathan

O R D E R

This Writ Petition has been filed to call for the records in Na.Ka.No.1088/2007/A1 dated 05.09.2008 on the file of the 2nd respondent and to quash the same, and to direct the respondents 1 & 2 herein to appoint the petitioner to the post of Assistant

in the Child Welfare Centre (Anganvadi) at Periyakoothampatti Village, Krishnagiri District under the control of the 1st respondent herein.

2. The case of the petitioner is that she had been working as Assistant in the vacant place for the post of Assistant in the Child Welfare Centre (Anganvadi) Periyakoothampatti, for more than one year without salary. Hence, the petitioner claims that, being a widow, she is eligible to be selected and appointed to the post of Anganvadi Centre Assistant in the Child Welfare Centre, Periyakoothampatti.

3. The petitioner would contend that the 1st respondent, by letter in Na.Ka.No.240/08 dated 02.07.2008, called upon her to appear for the interview on 10.07.2008 at 2.00 P.M., and accordingly, the petitioner was appeared for the same by producing necessary certificates as stated in the letter dated 02.07.2008. The 3rd respondent herein, namely, M.Saravana, was also appeared for the said interview, as the person who was deserted by her husband. After the interview, the petitioner was rejected and the 3rd respondent was selected to the post of Assistant in the Anganvadi Child Welfare Centre at Periyakoothampatti under the control of the 1st respondent, by order of the 2nd respondent dated 05.09.2008 in Na.Ka.No.1008/2007/A1. Hence, the petitioner claims that after the enquiry was over, the 2nd respondent visited the centre where she was working and appreciated her performance as Assistant in the Child Welfare Centre (Anganvadi) and assured of employment as Assistant in the Centre. After the transfer of the 2nd respondent, the District Revenue Officer took charge in the place of the 2nd respondent and passed the impugned order, and whereby, she had been rejected and the 3rd respondent had been appointed to the said post.

4. The petitioner would also contend that the 3rd respondent, giving a false statement during the course of interview that she is a person deserted by her husband, had been appointed in the post of Assistant, but, in fact, the husband of the 3rd respondent, namely, Umapathy, is working in a foreign country and has been supporting his family, namely, the 3rd respondent and her two children, by sending money from foreign country periodically. Hence, for the purpose of obtaining employment, the 3rd respondent had submitted false certificate issued by the Tahsildar, on the recommendation made by the Village Administrative Officer, Damodarahalli, to the effect that the 3rd respondent is a person deserted by her husband. As such aggrieved by the impugned order dated 05.09.2009, the petitioner has filed this Writ Petition, seeking to quash the same.

5. Denying all the averments of the petitioner, the 3rd respondent, namely, M.Saravana, has filed a counter affidavit, wherein, it has been stated that when she appeared for the interview as per the letter of the 1st respondent dated 02.07.2008, she produced all the requirements of the 1st respondent, but, the petitioner did not produce any educational certificate, and therefore, the petitioner was rejected and she was appointed to the post of Assistant, by order of the 2nd respondent dated 05.09.2008 and has been working in the post since then.

6. The 3rd respondent would further contend that it is true that she was married to one Umapathy on 27.06.1994 and out of the wedlock she had given birth to two children. But, the said Umapathy had deserted her long back and from then, she has been living separately with her children and her father-in-law, who is otherwise her relative taking into consideration her life and the life of his grand children had convened panchayat and on 17.09.1999 her father-in-law had executed a Will bequeathing his properties in favour of her children, excluding her husband and on 20.11.1999, it was agreed by both the 3rd respondent and her husband that there is no claim against each other, in the presence of the panchayatars.

7. Moreover, the 3rd respondent would contend that even though her father-in-law had bequeathed a small property in favour of her children, as of now she is suffering a lot to bring up her two children, and therefore, she had applied for the said post and had produced all the necessary requirements for being appointed. Hence, the 3rd respondent would contend that her appointment to the post of Assistant, is legal and valid and it is the petitioner who is not qualified for being appointed as she did not produce any educational certificate, and hence, sought for dismissal of the above Writ Petition.

8. Furthermore, the 3rd respondent would contend that there is a stay in M.P.No.2 of 2008 granted by this Court on 25.09.2008 and due to which, still she is working in the post in dispute. Also, taking advantage of the stay order, the petitioner is pressurizing the respondents to prevent her from performing the duty. Hence, she sought for vacating the stay.

9. Counter affidavit filed by the District Collector, the 2nd respondent herein, is placed before this Court, wherein, it could be seen that at the time of interview, which was conducted on 10.07.2008, the age criteria for the post of Anganwadi Helper was fixed between 20 to 40 years. But, the petitioner herein, had crossed the age of 40 years and also she did not have any educational qualification. Therefore, she was rejected to the

said post, and another candidate, namely, Tmt.S.Saravana, the 3rd respondent herein, had been appointed to the post of Anganwadi Helper at Periyakoothampatti ICDS Centre in Kaveripattinam Block, as she was abandoned by her husband (as per the certificate issued by the Tahsildar, Pochampalli) apart from her educational qualification of having passed Vth Standard. Hence, the 2nd respondent would contend that the statement of the petitioner that her case was neglected and not considered by the selection committee is a false one and imaginary.

10. However, this Writ Petition was filed in the year 2008 and at the time of filing the affidavit, it is stated by the petitioner that her age was 37 years, and now we are in the year 2018, hence, the petitioner has reached above 46 years. But, the first respondent in the counter has stated that at the time of interview, the petitioner crossed 40 years and hence, she was not eligible for consideration to the said post. Even at the time of selection, when she is not qualified, there cannot be any plea to consider her case. Hence, the Writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

raja
To

1.The Child Welfare Officer,
Office of the Child Welfare Centre,
Kaveripattinam,
Krishnagiri District.

2.The District Collector,
Krishnagiri District,
Krishnagiri.

+1cc to Mr.T.Panchatsaram, Advocate Sr.51819
+1cc to the Government Pleader Sr.51902 & 51906

W.P.No.23454 of 2008
and

M.P.No.2 of 2008 & M.P.No.1 of 2009

gj[co]
srg 11/01/2019