

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.08.2018

CORAM

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

W.P.No.27805 of 2016

Mrs.S.Manjula

..Petitioner

vs

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Panchayat Union Commissioner,
Kaveripattinam,
Krishnagiri District.

..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 pertaining to the impugned order passed in Na.Ka.No.28101/2010/X1 dated 24.08.2011 on the file of 1st Respondent and quash the same and consequently direct the 1st Respondent to ratify the petitioner appointment as Noon-Meal Organizer and accommodate the petitioner in the nearest available vacancy in Kaveripattinam Panchayat Union in Krishnagiri District within reasonable time to be fixed by this Hon'ble Court.

For Petitioner : Mr.P.Rajavel

For Respondents: Mr.R.S.Selvam, 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 an organizer in Noon-Meal Scheme by the Block Development Officer / the second respondent / The Commissioner, Panchayat Union, Kaveripattinam. The appointment was made by the second respondent dated 06.01.2009 and accordingly, the writ petitioner was working as Noon-Meal organizer for a period of two months 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. Contrarily, it was informed by the authorities that the Block Development Officer / The Commissioner, Panchayat Union has no authority to issue an order of appointment for the post of Noon-Meal organizer and the Government has not granted any such delegation of powers or authorization, enabling the Block Development Officer / The Commissioner, Panchayat Union 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, stating that the Block Development Officer / The Commissioner, Panchayat Union had irregularly appointed the petitioner in the Post of Noon-Meal organizer in the second respondent Union 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 / The Commissioner, Panchayat Union to issue an order of appointment. This apart, suitable disciplinary actions were also issued against the concerned Block Development Officer / The Commissioner, Panchayat Union 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 24.08.2011 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 / The Commissioner, Panchayat Union 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 / The Commissioner, Panchayat Union 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 / The Commissioner, Panchayat Union 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 Officer / The Commissioner, Panchayat Union have not empowered or authorized to issue an order of appointment for the post of Noon-Meal organizer in 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.The learned counsel appearing on behalf of the writ petitioner brought to the notice of this Court that now once again the writ petitioner was called for to attend an interview in proceedings dated 10.03.2017. This Court is of an opinion that the present interview is no way connected with the earlier appointment and the respondents are at liberty to consider the case of the petitioner along with all other eligible candidates without taking note of the fact regarding the earlier appointment made in favour of the writ petitioner, which is held illegal.

7.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)

//True Copy//

Sub Assistant Registrar

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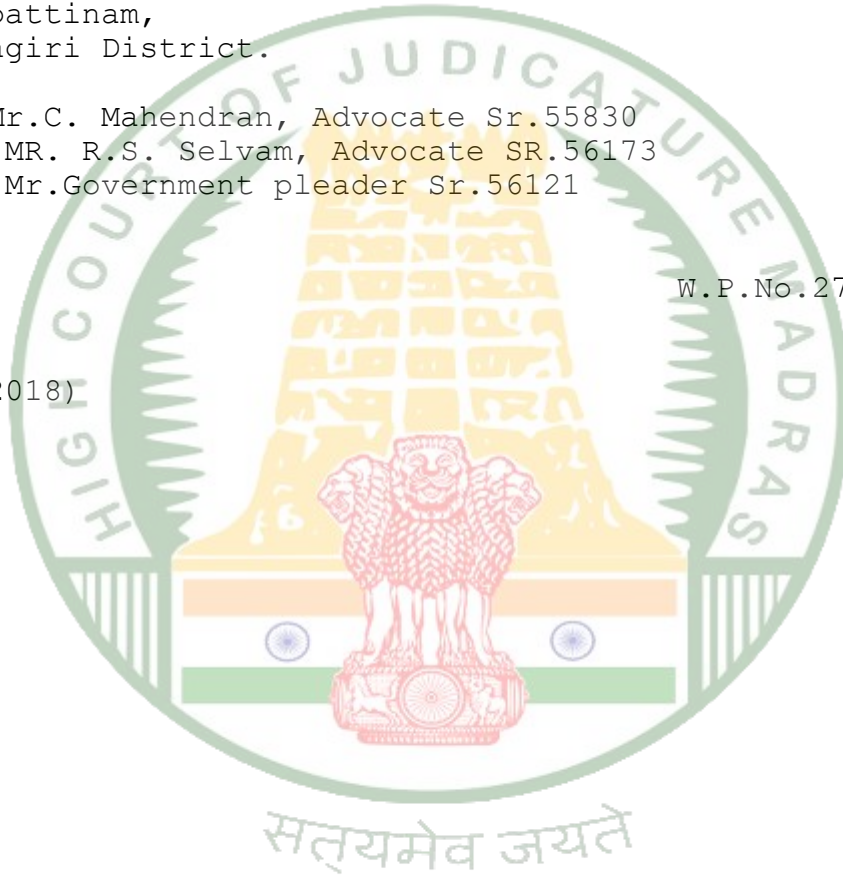
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+ cc to Mr.C. Mahendran, Advocate Sr.55830
+ 1 cc to MR. R.S. Selvam, Advocate SR.56173
+ 1 cc to Mr.Government pleader Sr.56121

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KS(CO)
EU(18/09/2018)



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