

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.26561 of 2012

J.Subitha

... Petitioner

Vs

1.The Collector,
Vellore,
Vellore District.

2.The District Project Officer,
Integrated Child Development Scheme,
Vellore, Vellore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the First Respondent in Se.Mu.Na.Ka.No.1622/A1/2012 dated 05.09.2012 and quash the same and direct the respondents to allow the petitioner to join duty as Anganwadi Worker as per the order of appointment issued by the First Respondent in Se.Mu.Na.Ka.No.1622/A1/2012 dated 02.09.2012 with effect from the date of the said order and grant her all consequential benefits.

For Petitioner : M/s.A.Anusuya for
M/s.T.P.Prabakaran

For Respondents : Mrs.K.Bhuvaneswari,
Additional Government Pleader

O R D E R

Heard Ms.A.Anusuya, learned counsel for the petitioner and Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the First Respondent in Se.Mu.Na.Ka.No.1622/A1/2012 dated 05.09.2012 and quash the same and direct the respondents to allow the petitioner to join duty as

Anganwadi Worker as per the order of appointment issued by the First Respondent in Se.Mu.Na.Ka.No.1622/A1/2012 dated 02.09.2012 with effect from the date of the said order and grant her all consequential benefits. "

3. The petitioner has passed the Higher Secondary Course and belongs to the Scheduled Caste Community. She is fully qualified for appointment to the post of 'Anganwadi Worker'. Applications were called for filling up the post of 'Anganwadi Worker' at the Anganwadi Centre in Rotary Nagar, Perumugai Panchayat, Vellore. According to the petitioner, the Anganwadi Centre is located at a distance of 6 kms from the petitioner's residence, the petitioner being eligible had applied for the appointment to the said post. According to the petitioner, the petitioner along with two other candidates had applied. Out of three candidates, one was found to be over-aged and other candidate did not produce any requisite documents as required by the official concerned. In the said circumstances, the authority ultimately selected the petitioner and appointed her as Anganwadi Worker at the Rotary Nagar Centre, by proceedings of the first respondent, dated 02.09.2012.

4. When the matter stood thus, the appointment of the petitioner subsequently by order of the first respondent, dated 05.09.2012, came to be cancelled. The cancellation was on the ground that the petitioner is living in town area and the centre in which she was appointed belongs to rural area. Except the reason as stated above, no other reasons have been given for cancellation of her appointment.

5. The learned counsel for the petitioner would submit that in the absence of eligible candidates available, there is nothing wrong in appointing the petitioner although she belongs to the town area. The fact of the matter is that the distance of the petitioner's residence to the Centre in which she was appointed was only 6 kms and such geographic proximity ensures the the residence of the petitioner falls within permissible distance as stipulated. The cancellation of the petitioner's appointment on such hyper-technical reasons stating that the petitioner belongs to town area cannot be countenanced either in law or on facts. This is particularly shows that no other candidate as available for the appointment.

6. Upon notice, Mrs.K.Buvaneswari, the learned Additional Government Pleader appearing for the respondents and filed counter affidavit.

7. The learned Additional Government Pleader would rely upon paragraph 4 of the counter affidavit, which is extracted below:

4. It is submitted that notification has

been issued for the selection of anganwadi workers under Integrated Child Development Scheme in vellore District. AS per the notification the minimum eligibility criteria for the above post is as below as per GO Ms.No.110/SW & NMP Dept dated 14.5.12.

a. The age of the candidate should be 25-35 years

b. Educational qualification should be SSLC pass

c. Residence: The centers located in rural areas the residence of the candidate should be within 10 km in the rural area and for the centres located in urban areas within town panchayat/municipality/division in Corporation.

The Candidates residing in rural areas cannot apply for the centers of the urban areas and candidates residing in urban areas cannot apply for the centers of rural areas.

The above notification was issued before recruitment and applicants were requested to submit applications by fulfilling the above requirements."

Therefore, she would submit that her appointment was contrary to the aforesaid G.O.

8. This Court has given its anxious consideration to the rival submissions of the learned counsel both parties and after having perused the materials and pleadings placed on record, is of the view that the reason as set forth in both impugned orders of cancellation as well as the counter affidavit cannot be acceptable as valid and the same cannot be countenanced either in law or on facts.

9. The petitioner having participated in selection and having succeeded as the sole candidate and having been appointed by proceedings dated 02.09.2012 cannot be denied such employment subsequently by proceedings, dated 05.09.2012. As rightly contended by the learned counsel for the petitioner that out of three candidates, the petitioner only emerged eligible and therefore, she was rightly granted appointment and more over, it is an admitted fact that the distance between the residence of the petitioner and the centre in which she was appointed was only 6 kms which is fulfillment of the condition as provided under clause - c of G.O.Ms.No.110/SW & NMP Dept. dated 14.05.2012. The impugned reason that the petitioner resides in

town area cannot be a valid reason for cancelling her appointment in view of geographical proximity of the residence of the petitioner and the Anganwadi in which she was appointed. The reason appears to be rather preposterous and that cannot stand the test of judicial scrutiny.

10. For the aforesaid reasons, this Court has no hesitation in allowing the writ petition and therefore, the impugned orders of the first respondent viz., Se.Mu.Na.Ka.No.1622 / A1 / 2012, dated 02.09.2012 and Se.Mu.Na.Ka.No. 1622 / A1 / 2012, dated 05.09.2012, are hereby quashed. The respondents are therefore directed to allow the petitioner to join duty as Anganwadi Worker as per the appointment issued by proceedings, dated 02.09.2012, with all attendant benefits. The direction shall be complied with by the respondents within a period of six weeks from the date of receipt of a copy of this order. It is made clear that the petitioner is not entitled to back wage for the period of non-employment on the principle of "No Work No Pay".

11. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Collector,
Vellore,
Vellore District.

2.The District Project Officer,
Integrated Child Development Scheme,
Vellore, Vellore District.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.12255

+1cc to the Government Pleader, S.R.No.11169

W.P.No.26561 of 2012

SS (CO)
RRK (20/03/2018)