

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.08.2018

CORAM

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

W.P.Nos.4845 to 4847 of 2016 & 2364 to 2371 of 2016
and

W.M.P.Nos.4196 to 4201 of 2016 & 2041 to 2056 of 2016

- 1 G.MALLIKA ... PETITIONER in WP No.4845 of 2016
W/O.GOVINDAN SANTHAPURAM VILLAGE
KAVERIPATTINAM POST KRISHNAGIRI TALUK AND
DISTRICT
- 1 M.ESWARI ... PETITIONER in WP No.4846 of 2016
W/O.MADHU THENODAI NAGAR KOORAMPATTY
PALEKULI POST KRISHNAGIRI TALUK AND
DISTRICT
- 1 N.SAROJA ... PETITIONER in WP No.4847 of 2016
W/O.LATE NATARAJAN N.MOTTUR VILLAGE AND
POST KRISHNAGIRI TALUK AND DISTRICT
- 1 C.POONGODI ... PETITIONER in WP No.2364 of 2016
W/O.LATE.CHINNASAMY CHINNAMUTHUR VILLAGE
KRISHNAGIRI TALUK & DISTRICT
- 1 KALAISELVI ... PETITIONER in WP No.2365 of 2016
W/O.PERIYANNAN SELLAMPATTU POCHAMPALLI
TALUK KRISHNAGIRI TALUK & DISTRICT
- 1 M.KAVITHA ... PETITIONER in WP No.2366 of 2016
W/O.LATE.MURUGAN PANNANTHUR VILLAGE
KRISHNAGIRI TALUK & DISTRICT
- 1 S.VENNILA ... PETITIONER in WP No.2367 of 2016
W/O.KANDHAN ANGINAMPATTY VILLAGE
MITTAHALLI POST KRISHNAGIRI TALUK &
DISTRICT

1 M.DEVAKI ... PETITIONER in WP No.2368 of 2016
W/O.MANI SOUTTAHALLI VILLAGE AND POST
KRISHNAGIRI TALUK & DISTRICT PIN-635 112.

1 C.KRISHNAVENI ... PETITIONER in WP No.2369 of 2016
W/O.CHINNASAMY BERUHALLI CROSS ROAD
NAGARSAMPATTY POCHAMPALLI TALUK
KRISHNAGIRI DISTRICT.

1 R.SUMATHI PETITIONER in WP No.2370 of 2016
W/O.LATE RAMALINGAM CHETTIMARAMPATTY
MALAIYANDAHALLI POST KRISHNAGIRI TALUK AND
DISTRICT.

1 P.MADHESWARI ... PETITIONER in WP No.2371 of 2016
W/O.LATE PERIYANNAN MARIGOUNDAN SAVILUR
PENNESHWARA MADAM POST KRISHNAGIRI TALUK
AND DISTRICT.

VS

1 THE DISTRICT COLLECTOR
KRISHNAGIRI DISTRICT KRISHNAGIRI

2 THE COMMISSIONER
KAVERIPATTINAM PANCHAYAT UNION KRISHNAGIRI
DISTRICT

3 THE CHAIRMAN
KAVERIPATTINAM PANCHAYAT UNION
KAVERIPATTINAM KRISHNAGIRI DISTRICT

... RESPONDENTS IN ALL WP'S

WP No.4845 of 2016:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka.No.2913/2009/A6 dated 17.12.2015, quash the same and

consequently direct the respondents to reinstate the petitioner in service as Cook in Panchayat Union Elementary School, Bannihalli Pudhur, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits.

WP No.4846 of 2016

Calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro. Na. Ka. No.2913/2009/A6 dated 17.12.2015, quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Middle School, Chettimarampatti, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.4847 of 2016

Calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro. Na. Ka. No.2913/2009/A6 dated 17.12.2015, quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Elementary School, N.Mottur, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.2364 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook in Panchayat Union Elementary School, Chinnamuthur, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.2365 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Elementary School, Kambukalampatti, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.2366 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka.

No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Elementary School, Pannanthur, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.2367 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Government High School, Moranahalli, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits

WP No.2368 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Elementary School, Savulur, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits.

WP No.2369 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Government Boys Higher Secondary School, Nagarasampatti, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits.

WP No.2370 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka. No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook Assistant in Panchayat Union Elementary School, Sundekuppam, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits.

WP No.2371 of 2016

calling for the records relating to the impugned order of termination passed by the 2nd respondent in his Pro.Na.Ka.

No.2913/2009/A6 dated 17.12.2015 quash the same and consequently direct the respondents to reinstate the petitioner in service as Cook in Government High School, Moranahalli, Kaveripattinam Panchayat Union, Krishnagiri District with all consequential service and monetary benefits.

For Petitioners

(in W.P.Nos.4845 to 4847 of 2016,
2366, 2369 and 2371 of 2016) : Mr.C.Mahendran

(in W.P.Nos.2364,2365,2367,2368
and 2370 of 2016) : Mr.R.Thamaraiselvan

For Respondents

(in W.P.Nos.4845 to 4847 of 2016,
2364 to 2369 of 2016 and
for R1 & R3 in W.P.No.2370 & 2371
of 2016) : Mr.S.R.Rajagopal, AAG
Assist by Mr.M.Elumalai, GA

For R2

(in W.P.Nos.2370 & 2371 of 2016) : Mr.M.Digvijayapandian

C O M M O N O R D E R

The order of cancellation of appointments and the termination of service of the writ petitioners issued by the 2nd respondent are under challenge in these writ petitions.

2.The writ petitioners were appointed as Cook / Cook Assistant by the Block Development Officer / the second respondent / The Commissioner, Panchayat Union, Kaveripattinam. The appointments were made by the second respondent in his proceedings dated 05.09.2007, 09.11.2007, 21.01.2012, 27.07.2007, 02.11.2007, 03.08.2007, 23.08.2007 and accordingly, the writ petitioners were working as Cook / Cook Assistant for more than five years in the third respondent Union. Initially, the salary was paid to the writ petitioners and subsequently, it was not credited in their account without any valid reason. 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 posts of Cook / Cook Assistant 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 petitioners 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 12.09.2012, stating that the Block Development Officer / The Commissioner, Panchayat Union had irregularly appointed the petitioners in the Posts of Cook / Cook Assistant in the third 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 petitioners was irregular and the order of appointment was issued by an incompetent authority without any jurisdiction. Thus, the 2nd respondent canceled the order of appointment of the writ petitioners in proceedings dated 17.12.2015 and accordingly, the writ petitioners were relieved from service. Challenging the said impugned order, the present writ petitions have been filed.

3.The writ petitioners have stated that the initial appointment of the writ petitioners was made by the Block Development Officer / The Commissioner, Panchayat Union and the orders were passed to that effect and the writ petitioners were permitted to join duty. Initially, the salary was paid to the writ petitioners and subsequently, the salary paid to the writ petitioners, was not credited in their account. When they approached the authorities, they informed the writ petitioners that the initial appointment made was irregular. The writ petitioners plead that they are innocent and they are no way connected with any such irregularity. The grievances of the writ petitioners are that they were selected by the Block Development Officer / The Commissioner, Panchayat Union and an order of appointment was issued and accordingly, the writ petitioners 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 orders have been sent for the approval of the District Collector and the District Collector in turn, cancelled the orders 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 petitioners 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 Cook / Cook Assistant 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 petitioners, was an illegal one and therefore, it is left open to the writ petitioners 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 orders passed by the respondent is in accordance with law and there is no infirmity as such.

6.Accordingly, all the writ petitions are devoid of merits and stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Krishnagiri District,
Krishnagiri.
- 2.The Commissioner,
Kaveripattinam Panchayat Union,
Krishnagiri District.
- 3.The Chairman,
Kaveripattinam Panchayat Union,
Kaveripattinam,
Krishnagiri District.

+7cc to Mr.C.Mahendran, Advocate sr.no.53950
+1cc to Mr.M.Digvijayapandian, Advocate sr.no.54323

W.P.Nos.4845 to 4847 of 2016
& 2364 to 2371 of 2016

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nr 20/08/2018