

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.07.2018

CORAM

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

W.P.No.7327 of 2016

and

W.M.P.No.6512 of 2016

S.Pachaiammal

..Petitioner

vs

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Block Development Officer,
Peranamallur Panchayat Union,
Peranamallur,
Thiruvannamalai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to appoint the petitioner as Noon Meal Organizer at Panchayat Union Primary School, Kolappallur, Peramanallur Panchayat Union, Tiruvannamalai District.

For Petitioner : Mr. R.Arundattan

For Respondents :Mrs.A.Srijayanthi
Special Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to appoint the petitioner as Noon Meal Organizer at Panchayat Union Primary School, Kolappallur, Peramanallur Panchayat Union, Tiruvannamalai District.

2. The learned counsel appearing for the petitioner made a submission that the writ petitioner is the permanent resident of Periya Kolappur Post, Vandavasi Taluk, Thiruvannamalai District. The petitioner is a Widow and having two children and her husband died on account of Cardiac arrest in the year 2012 and further states that she is unable to maintain the day-to-day expenditure of the family. Under these circumstances, she applied for the post

of Noon Meal Organiser with the respondents.

3. The learned counsel appearing for the petitioner would further state that the petitioner has participated in the interview for appointment to the post of Noon Meal Organiser in six places. However, she was not selected in any one of the places. Now the petitioner states that even in her own Village, the case of the petitioner was not considered, inspite of the fact that she is a Widow. As per the Government orders, additional ten marks are to be awarded to widows at the time of considering her case for selection. However, the respondents have not considered the case of the petitioner and appointed a person, who is not a Widow. Thus, the direction as such sought for, has to be granted.

4. The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that she participated in the interview in Peramanallur Panchayat Union, wherein marks were awarded to her, but she was not selected and the details of Marks scored at the time of Interview by the writ petitioner are set out in the counter affidavit filed by the 2nd respondent and the same reads as follows:

S.No.	Norms Particulars	Maximum Marks Fixed by the District Collector	Marks Scored by the Petitioner (PACHAIYAMMAL)	Marks Scored by the 3 rd Respondent (ANITHA)
1.	Education Qualification	5 Marks	5 Marks	5 Marks
2.	Age	10 Marks	6 Marks	2 Marks
3.	Community	5 Marks	5 Marks	5 Marks
4.	Distance between Applicant resident and Noon Meal Centre (Vacant Place)	5 Marks	5 Marks	5 Marks
5.	For Destitute/ Deserted Widow	10 Marks	10 Marks	10 Marks

S.No.	Norms Particulars	Maximum Marks Fixed by the District Collector	Marks Scored by the Petitioner (PACHAIYAMMAL)	Marks Scored by the 3 rd Respondent (ANITHA)
6.	Applicant having PH Member	5 Marks	Nil	Nil
7.	Economical Status	5 Marks	2 Marks	4 Marks
8.	Knowledge about maintenance of NMC Accounts	5 Marks	1 Marks	4 Marks
	Total	50 Marks	34 Marks	35 Marks

5. The Counter affidavit further states that one Mrs.G.Anitha W/o Gnanasekaran scored the highest mark among the applicant, who attended interview for the Noon Meal Organiser. Thus, the said G.Anitha was selected and appointed in the post of Noon Meal Organiser, as per the orders of the District Collector, Tiruvannamalai in proceedings dated 29.02.2016 and she is now working as such in the said place.

6. This Court is of an opinion that appointment can never be claimed as a matter of right. All appointments are to be made only in accordance with the recruitment rules in force. Undoubtedly, the writ petitioner has participated in the process of selection and interview. However, on perusal of the marks obtained by the writ petitioner in the interview, it is clear that the writ petitioner had not been selected on account of the fact that she had secured lesser marks compared to others, who appeared in that interview.

7. This Court cannot issue a direction to the respondents to appoint petitioner in the post of Noon Meal Organiser in Peramanallur Panchayat Union. Such appointment to be made only by following the procedures contemplated under the Rules and as per the Government Order in force. The authorities competent are bound to follow the rules for appointment. Any violation in this regard to be viewed seriously and the competent authorities if found, any violation of the Rules for appointment, then suitable action are to be taken against such public authorities.

8. This Court is of the opinion that equal opportunity in public appointment is a Constitutional Mandate and the authorities competent has to provide opportunity to all the eligible persons to participate in the process of selection through open competitive process. Such being the constitutional perspective, any preference or back-door entry appointment cannot be made in the public post. In the case on hand, admittedly, the writ petitioner has participated in the process of selection and she attended the interview. However, she could not able to secure more marks than other candidates who participated in that interview and therefore, she was not selected.

9. In respect of the prayer to issue an order of appointment to the said post, this Court cannot do so in the writ petition, unless, the writ petitioner has established that there is some patent error in not issuing an order of appointment. However, in the case on hand, the writ petitioner has not been selected in the interview and therefore, no relief as such sought for by the petitioner, can be granted.

10. Accordingly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Block Development Officer,
Peranamallur Panchayat Union,
Peranamallur,
Thiruvannamalai District.

+1cc to the Government Pleader, S.R.No.47615

W.P.No.7327 of 2016

GSP(31/07/2018)