

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2431 of 2018
and CMP No.19587 of 2018

1. The Block Development Officer,
Harur Taluk, Dharmapuri District.

2. The District Collector,
Dharmapuri District,
Dharmapuri.

.... Appellants

Vs.

1. G.Kumutha

2. V.Thulasi

.... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 01.03.2018 made in W.P.No.32810 of 2012.

Prayer in W.P.No.32810 of 2012:

Writ Petition filed under Article 226 of the Constitution of
India to issue a Writ of Certiorarified Mandamus to call for the
records pertaining to the proceedings having reference No.
11393/ 2012/ X1 dated 25.09.2012 issued by the 1st respondent
and the consequential proceedings having Ref.
Na.Ka.No.1691/2012/A4 dated 6.11.2012 issued by the 2nd
Respondent terminating the petitioner from the post of Noon
Meal Organizer at Kathiripatti Elementary Schooll in Harur
Taluk and appointing the 3rd respondent in the said vacancy and
quash the same consequently direct respondents to allow the
petitioner to continue in the said post of Noon Meal Organizer
at Kathiripatti Elementary Schooll in Harur Taluk.

For Appellants : Mr.D.Venkatachalam
Additional Government Pleader

For Respondents: Mr.P.Nethaji (for R1)

J U D G E M E N T

(Order of the Court was delivered by SUBRAMONIUM PRASAD, J)

The Instant writ appeal is directed against the order dated 01.03.2018 passed in W.P.No.32810 of 2012, allowing the writ petition.

2. The Block Development Officer, Harur Taluk, Dharmapuri District, vide proceedings in Ref.No.Ka.No.1691/2012/A4 dated 29.06.2012, called for eligible candidates for selection and appointment to the post of Noon Meal Organizer, created under the MGR Nutritious Noon Meal Scheme, by direct recruitment method. The vacancies were notified in Harur Taluk. The minimum educational qualification for consideration of appointment to the said post was a pass in 10th Standard. The petitioner who was qualified educationally, staked his claim for the post of Noon Meal Organiser. After undergoing various tests, the petitioner was considered suitable for appointment and was appointed on 21.08.2012 as Noon Meal Organiser at Kathiripatti Elementary School in Harur Taluk, in the pay scale of Rs.2,500 - 5000 + 500. The writ petitioner was directed to join the post and thereafter, she joined the post on 24.08.2012. After about a month's time, District Collector, Dharmapuri, vide proceedings in Ref.No.11393/2012/X1 dated 25.09.2012 appointed the 3rd respondent, one V.Thulasi in Kathiripatti Elementary School in Harur Taluk, in the place of the petitioner, on the ground that the petitioner was residing 12 kms away from the place of work. The order passed by the appellant vide Ref.No.16191/2012/A4 dated 06.11.2012, removing the writ petitioner, is challenged in W.P.No.32810 of 2012.

3. The learned Single Judge by the judgment impugned herein set aside the order passed by the District Collector, Dharmapuri District, appointing the 3rd respondent therein and the order passed by the Block Development Officer, Harur Taluk, Dharmapuri District, removing the writ petitioner and thereby, allowed the writ petition.

4. We heard the learned counsel for the parties and perused the records.

5. A perusal of the record would show that there was no stipulation that the person appointed as the Noon Meal Organiser should stay within a particular distance from the School. The reason for cancelling the writ petitioner's appointment on the ground that she is staying 12kms away from the school cannot therefore be sustained. The learned Single Judge has found that

there are 14 vacancies available in the same Taluk ,as per the communication dated 27.02.2018, produced in Court and that the petitioner can be appointed without disturbing the 3rd respondent therein.

6. In the facts and circumstances of the case, we find no reason to interfere with the judgment of the learned Single Judge. Accordingly, the instant Writ Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

7. The respondents 1 and 2 in the writ petition are directed to appoint the petitioner in the available vacancy, within a period of three weeks from the date of receipt of a copy of the order.

8. Mr.D. Venkatachalam, learned Additional Government Pleader appearing for the appellants / respondents 1 and 2 in the writ petition, would intimate the orders of this Court to the appellants and it is made clear that without waiting for the copy of the order, appointment should be made. Learned Additional Government Pleader would ensure compliance.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Block Development Officer,
Harur Taluk, Dharmapuri District.

2. The District Collector,
Dharmapuri District,
Dharmapuri.

+1cc to Mr.D.Venkatachalam, Advocate sr.81067

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srg 19/12/2018