



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.18991 of 2018

and

W.M.P (MD) Nos.16825 & 16826 of 2018

V.Lakshmi

... Petitioner

Vs.

1.The Secretary to Government

State of Tamil Nadu

Social Welfare & Nutritious Meal Programme Dept.,

St.George Fort,

Chennai - 600 009.

2.The District Collector,

Thanjavur District,

Thanjavur.

3.The Municipal Commissioner / Special Officer,

Kumbakonam Municipality,

30 / 64, Dr.Moorthy Road,

Kumbakonam,

Thanjavur District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned order in Na.Ka.No.1666-2018 ஈஉது1 dated 21.06.2018 and quash the same and directing the respondents to promote the petitioner to the post of Nutritious Meal Organizer.

For Petitioner : Mr.S.Rajaprabu

For Respondents : Mr.R.Sethuraman

(R1 & R2) Spl.Govt.Pleader

For Respondent-3 : Mr.M.Rajarajan

O R D E R

The petitioner seeks for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned order in Na.Ka.No.1666-2018 ஈஉது1, dated 21.06.2018 and quash the same and directing the respondents to promote the petitioner to the post of Nutritious Meal Organizer.



2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, the respondents are trying to fill up 25% of the vacancies by direct recruitment, which is originally due to the promotees / in-service employees and that she is an in-service candidate. The number of years of service required to be considered for promotion in terms of G.O.(Ms)No.163, Social Welfare and Nutritious Meal Scheme Department, dated 18.08.2010, is only a preferential one and when there are no eligible candidates available for promotion, then, in-service candidates have got to be given preference, as otherwise, the respondents will start filling up of all the promoted posts meant for in-service candidates, by direct recruitment, so as to deprive their rights in getting promotion, though eligible.

4. I have heard the learned counsels appearing on either side and perused the materials available on record.

5. A reading of the said G.O.(Ms)No.163, dated 18.08.2010, is very clear that a person, who had rendered service either as Cook for a period of five years or as Cook-Assistant for a period of ten years alone will be considered for promotion. Admittedly, the petitioner has rendered service for less than nine years and therefore, she does not fall within the purview of the said Government Order, which resulted in rejection of her request. Whether the posts reserved for promotees are going to be filled up by direct recruitment or not, is not a question to be decided in the present Writ Petition. If any promotion is made to the posts, that are reserved for direct recruitment, unless otherwise the Rules permit. The petitioner has no locusstandi to contend that she should be considered for promotion against those vacancy. As on date, the petitioner is not eligible to be considered for promotion and hence, the relief sought for by the petitioner cannot be granted.

6. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-I)

To

1. The Secretary to Government
State of Tamil Nadu

Social Welfare & Nutritious Meal Programme Dept.,
St. George Fort,
Chennai - 600 009.



2.The District Collector,
Thanjavur District,
Thanjavur.

+1cc to Mr.S.RAJAPRABHU, Advocate, SR.No.81712

+1cc to Mr.M.RAJARAJAN, Advocate, SR.No.81451

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MPK

KK/RP/SAR-1/22.11.2018/3P-5C