



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.10.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.10662 of 2011

WEB COPY

H.Sathya

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Collectorate,
Sivagangai.

2.The Child Welfare Project Officer,
Sivagangai Region,
Reserve Line Quarters Road,
Kurinji Nagar,
Sivagangai.

3.The District Project Officer,
District Project Office,
Opposite to Collectorate,
Periyar Nagar,
Sivagangai.

4.Saranya

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records comprised in Se.Mu.Na.Ka.No.3824/A1/2009, dated 15.02.2010 (signed on 15.02.2011) and quash the same and consequently direct the 1st respondent to appoint the petitioner to the post of Anganwadi Worker in Azhagamangari Anganwadi Centre of Sivagangai District.

For Petitioner

: Mr.R.Renga Ramanujam

For Respondents 1 to 3

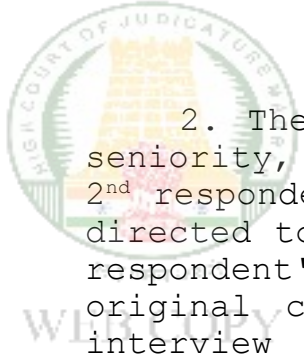
: Mr.D.Muruganandham,
Additional Government Pleader

For 4th respondent

: No appearance

ORDER

This writ petition has been filed by the petitioner challenging the appointment order of the 4th respondent as Anganwadi Worker and to consequently direct the 1st respondent to appoint the petitioner to the post of Anganwadi Worker in Azhagamangari Anganwadi Centre, Sivagangai District.



2. The case of the petitioner is that based on the employment seniority, the petitioner has received a proceedings issued by the 2nd respondent, dated 15.02.2010, in and by which the petitioner was directed to appear for interview to be held on 17.02.2010 at the 2nd respondent's Office for the post of Anganwadi Workers, along with original certificates. On 17.02.2010 the petitioner appeared for interview along with the relevant certificates before the 2nd respondent. After coming to know that the 4th respondent was permitted to act as Anganwadi Worker of Azhagamanagari Village, the petitioner has sent a representation, dated 24.05.2011, to the first respondent stating that without properly considering the educational qualification and age of the petitioner, the appointment order has been erroneously issued to the 4th respondent. On 02.06.2011 the petitioner has made an application to the District Nutrition Officer, Sivagangai, seeking details of the persons attended for interview held on 17.02.2010, copies of certificates of the selected candidate, etc. and the same was received by the 3rd respondent, who in turn directed 2nd respondent to give reply to the petitioner, by his proceedings dated 17.06.2011. While so, the petitioner received a communication bearing Na.Ka.No.245/2010, dated 29.06.2011 from the 2nd respondent, wherein the 2nd respondent has stated that the petitioner was selected for the said post among 15 persons attended in the interview. Based on the said communication, the petitioner has filed a writ petition in W.P.(MD).No.7877 of 2011 seeking a direction to the first respondent to issue appointment order to the petitioner as an Anganwadi worker. This Court, by order dated 22.07.2011, has dismissed the writ petition holding that refuting the communication dated 29.06.2011, the second respondent has already passed revised communication dated 11.07.2011. While so, the petitioner has come up with this writ petition challenging the appointment order of the fourth respondent.

3. Heard the learned counsel appearing for both sides and perused the records carefully.

4. The main contention of the learned counsel for the petitioner is that though the petitioner has higher qualification and is elder than the fourth respondent, the official respondents arbitrarily selected the 4th respondent and when the petitioner sought for information about the educational qualification of the candidates appeared for the interview, the second respondent, by his communication dated 29.06.2011, has fairly admitted that the petitioner has been selected for the said post and therefore, it is clear that the respondents 1 to 3 had not adopted fair procedure of selection.

5. When the very same ground has been raised by the petitioner before this Court in the earlier writ petition in W.P.(MD).No.7877 of 2011, this Court, by order dated 22.07.2011, has held in paragraph No.6 as follows:

<https://hcservices.ecourts.gov.in/hcservices/>
6. Perusal of the revised communication, dated 11.07.2011, of the second respondent shows that the



WEB COPY

petitioner has been informed of the mistake that had crept in the first communication dated 29.06.2011. The later communication has also been acknowledged by the writ petitioner, a copy of the revised proceedings in R.C.No.245/2011, dated 11.07.2011 of the Child Welfare Officer, second respondent and the postal acknowledgment with signature of the petitioner are placed on record. As the claim of the petitioner based on the latter dated 29.06.2011, has been refuted, inasmuch as the petitioner has not been selected to the post of Anganwadi Worker in Azhagamanagari Village, Sivagangai District, which has been filled up in February 2011 itself, there is no legal or statutory right for the writ petitioner to seek for a mandamus."

6. Admittedly, the petitioner has not challenged the revised communication of the second respondent, dated 11.07.2011, attributing any mala fide or bias. It shows that the petitioner has accepted that the communication sent by the 2nd respondent stating that the petitioner has been selected for the post of Anganwadi worker among 15 persons, is only a mistake. Therefore, based on the earlier communication, dated 29.06.2011, now the petitioner cannot say that the selection procedure is wrong.

7. In view of the above and considering the order passed in the earlier writ petition and also considering the fact that the petitioner has not been selected to the post of Anganwadi Worker, which has been filled up in February 2011 itself, this Court is inclined to dismiss this writ petition and accordingly, it is dismissed. No costs.

Sd/-

Assistant Registrar(Crl.side)

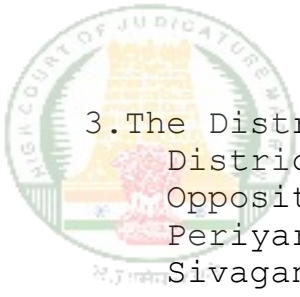
/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The District Collector,
Sivagangai District,
Collectorate, Sivagangai.

2.The Child Welfare Project Officer,
Sivagangai Region,
Reserve Line Quarters Road,
Kulini Nagar, Sivagangai.



3.The District Project Officer,
District Project Office,
Opposite to Collectorate,
Periyar Nagar,
Sivagangai.

WEB COPY

W.P (MD) No.10662 of 2011
31.10.2018

GCG
ES/PM/SAR 3/05.12.2018/4P/4C