

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.131 of 2013

Revathi

... Petitioner

vs.

1.The District Collector,
Ariyalur District.

2.The Child Development Project Officer,
Andimadam Panchayat Union,
Andimadam,
Ariyalur District.

3.Dhanalakshmi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records pertaining to the order made in Na.Ka.No.365:A1:2012, dated 08.08.2012 issued by the 1st Respondent and quash the same and further direct the Respondents to consider the Petitioner for appointment to the post of Anganwadi worker for the Child Development Centre at Devanur, Ariyalur District.

For Petitioner : Mr.G.Pugazhenth

For 1st Respondent : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For Respondents 2&3 : No appearance

O R D E R

Petitioner has come up with the present Writ Petition challenging the order dated 08.08.2012 passed by the 1st Respondent vide proceedings in Na.Ka.No.365:A1:2012, and for a further direction to the Respondents to consider her for appointment to the post of Anganwadi worker for the Child Development Centre at Devanur, Ariyalur District.

2. According to the Petitioner, she is a physically challenged person with 60% disability and is a permanent

resident of Devanur Village, Ariyalur District. She has completed Higher Secondary Course and belongs to Most Backward Class. The 1st Respondent issued a Notification on 23.05.2012 in a Tamil Daily calling for Applications for the posts of Nutritious Meal Organizers, Cooks and Cook Assistants in Nutritious Meal Centre. On coming to know that there are vacancies to the post of 'Anganwadi Workers' in Andimadam Circle, in which, Devanur Centre was reserved for general term and allotted to Special Category, the Petitioner made an Application to the 2nd Respondent for the post of Anganwadi worker in the Child Development Centre in the said Village. Thereafter, on receipt of a Call Letter dated 27.07.2012, the Petitioner attended the interview held on 07.08.2012 at the Office of the District Collector, Ariyalur District.

3. It is the case of the Petitioner that though, she is the only physically challenged person to have attended the interview for the post of 'Anganwadi worker', appointment of the 3rd Respondent to the said post in the Child Development Centre at Devanur Village is illegal and unjustified.

4. It is the contention of the learned counsel for the Petitioner that the 3rd Respondent does not come under any one of the priority category viz. Widow, Destitute Widow, etc and that the Official Respondents for reasons best known to them, have appointed the 3rd Respondent to the post of Anganwadi worker in the Child Development Centre at Devanur Village, thereby giving a go-by to Communal Rotation.

5. The 2nd Respondent has filed counter affidavit stating that the appointment order dated 08.08.2012 issued by the 1st Respondent to the 3rd Respondent to the post of Anganwadi worker in Devanur Anganwadi Centre, Andimadam Project, Ariyalur District is legal and justified, as the said vacancy of Anganwadi Worker for Devanur Anganwadi Centre is reserved for General Turn priority only and not as stated by the Petitioner as General Turn with Special Category. It is further stated therein that all aspects of communal rotation has been taken into account fully and based on the recommendation of the Selection Committee, appointment order was issued to the 3rd Respondent.

6. Even though the 3rd Respondent has entered appearance before this Court, she has not filed any counter affidavit and there is no representation on her behalf.

7. Learned Special Government appearing for the 1st Respondent submitted that the appointment order issued to the 3rd Respondent is perfectly valid and it needs no interference after

a period of seven years.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. The Recruitment process for the post of Anganwadi worker makes it clear that the vacancy at Devanur Anganwadi Centre is to be filled up on General Turn priority basis and the same has been admitted by the official Respondents herein. The Petitioner being a Physically Challenged person comes under Special category, whereas, the 3rd Respondent does not satisfy any of the conditions for communal Rotation and hence, she would not be entitled to any relief. Thus, the contention of the learned counsel for the Petitioner that for reasons best known to the official Respondents, the 3rd Respondent has been appointed, cannot be brushed aside.

10. In view of the foregoing, the appointment order issued to the 3rd Respondent is interfered and the official Respondents herein are directed to consider the case of the Petitioner along with others, who are eligible for appointment, on priority basis, if found eligible, within a period of 45 days from the date of receipt of a copy of this order. Though, this Court is not inclined to grant any monetary relief to the Petitioner as she has not rendered any service, for the purpose of calculation of terminal benefits due to the Petitioner, the date of appointment of the 3rd Respondent shall be taken into account.

11. This Court makes it clear that the 1st Respondent/District Collector, Ariyalur and the 2nd Respondent/Child Development Project Officer, Andimadam, Ariyalur District, shall not draw salary till the Petitioner is given appointment, in view of the decision rendered in the case of Central Co-operative Consumers' Store Ltd. vs. Labour Court, Himachal Pradesh reported in 1993 (3) SCC 214, wherein, the Apex Court has ordered recovery of the amount of back wages to the employee from the personal salary of the Officers of the Society, who have been responsible for the endless litigation.

This Writ Petition is allowed with the above direction and observation. No costs.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

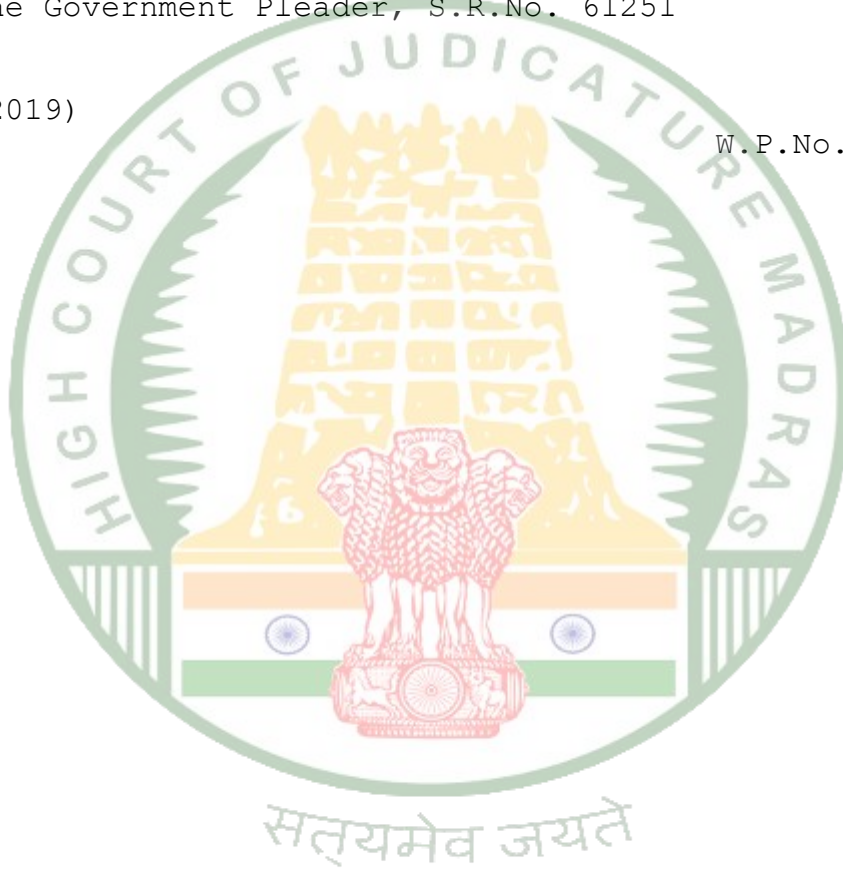
- 1.The District Collector, Ariyalur District.
- 2.The Child Development Project Officer,
Andimadam Panchayat Union, Andimadam, Ariyalur District.

+lcc to Mr.G.Pugazhenthii Advocate, S.R.No.60070

+lcc to the Government Pleader, S.R.No. 61251

PA(CO)
CB(04/09/2019)

W.P.No.131 of 2013



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