

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.35111 of 2007

P.Andal

.. Petitioner

Vs.

1. The Block Development Officer,
(Panchayat Union),
Andimadam Panchayat Union,
Andimadam, Perambalur District.

2. Personal Assistant to Collector,
Perambalur District,
Perambalur.

3. The District Collector,
Perambalur District,
Perambalur.

.. 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 of the 3rd respondent in his proceedings in Na.Ka.No.1075/07/செ.தி-1 dated 25.09.2007 quash the same and to direct the respondents herein to implement the appointment order Na.Ka.No.1075/07/செ.தி-1 dated 20.09.2007 of the 3rd respondent herein by permitting the petitioner to join duty as Noon Meal Organiser in Government Higher Secondary School, Variyankaval, Andimadam Panchayat Union.

For Petitioner : Mr.I.Jeyaraj
for Mr.G.Purushothaman

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The Writ Petition is filed challenging the order of the 3rd respondent proceedings in Na.Ka.No.1075/07/செ.தி-1 dated 25.09.2007, and to direct the respondents herein to implement the appointment order Na.Ka.No.1075/07/செ.தி-1 dated 20.09.2007 of the 3rd respondent herein by permitting the petitioner to join

duty as Noon Meal Organiser in Government Higher Secondary School, Variyankaval, Andimadam Panchayat Union.

2. According to the petitioner, she has been called for an interview held on 30.04.2007 before the second respondent for selection and appointment as Noon Meal Organiser. Along with petitioner, 9 other candidates attended the interview, which was held on 30.04.2007. 5 candidates who attended the interview were from her village. 3 candidates belong to Ilayur village, which is 1 km from Variyankaval and one candidate from Marudoor Village, which is about 5 km from her village. After the interview, the petitioner was served with appointment order dated 20.09.2007 issued by the third respondent on 24.09.2007. The petitioner approached the first respondent on 25.09.2007 itself to join duty. But she was not permitted to join the duty by the first respondent. The first respondent orally informed the petitioner that she will not be permitted to join duty as the post was reserved for the Backward Community.

3. The petitioner gave representation dated 28.09.2007, requesting the third respondent to permit her to join duty as Noon Meal Organiser at Government Higher Secondary School, Variyankaval in accordance with appointment order dated 20.09.2007. No order was passed by the third respondent. The petitioner filed W.P.No.31970 of 2007 for a direction to the respondents to implement the appointment order dated 20.09.2007 issued by the third respondent by permitting the petitioner to join duty as Noon Meal Organiser in the Government Higher Secondary School, Variyankaval, Andimadam Panchayat Union. This Court by the order dated 04.10.2007 directed the third respondent to consider the representation of the petitioner dated 28.09.2007 on merits taking into consideration of the appointment order dated 20.09.2007 and shall act on the same.

4. According to the petitioner the third respondent by the letter dated 02.11.2007 called the petitioner for enquiry on 05.11.2007 at 9.30 A.M. at Perambalur in the office of the third respondent to conduct an enquiry with regard to appointment order, cancellation order and order of this Court. According to the petitioner, she was not served any cancellation order but participated in the enquiry. The third respondent did not conduct any enquiry, directed the petitioner to give her submissions in writing and left the place of enquiry. The second respondent was compelling the petitioner to receive the order of cancellation. The petitioner requested the second respondent to give a reply to her representation dated 28.09.2007. In view of the same, the cancellation order dated 25.09.2007 was sent by post and the same was received by the petitioner on 09.11.2007, which is impugned in the Writ petition.

5. According to learned counsel for the petitioner, the appointment order dated 20.09.2007 was issued after verification of entire documents and following the procedures and contended that subsequent cancellation order stating that the post was allotted to Backward Community is illegal and not sustainable. The reason given in the cancellation order that appointment order was issued due to typographical error cannot be accepted and unsustainable in law. Candidates of different communities were interviewed including the petitioner for the post of Noon Meal Organiser at Government Higher Secondary School, Veriyankaval and the reason given by the third respondent for cancellation of appointment order of the petitioner that post was allotted only to Backward Community is not sustainable in law and prayed for allowing the Writ Petition.

6. The learned Government Advocate submitted that Perambalur District was bifurcated as Perambalur District and Ariyalur District. The first respondent Andimadam Panchayat Union is situated in Ariyalur District. The District Collector, Ariyalur has filed counter affidavit and denied all the averments made in the affidavit. The learned Government Advocate has stated that appointment order dated 20.09.2007 was issued to the petitioner who belongs to Most Backward Community due to typographical error, while the said post was reserved only for Backward Community. The order of cancellation dated 25.09.2007 was served on the petitioner and to the concerned School. It is not correct to state that the third respondent did not conduct any enquiry as per the directions of this Court. As per the order of this Court dated 04.10.2007 made in W.P.No.31970 of 2007, the third respondent has conducted enquiry and considered the representation of the petitioner and rejected the same on 07.11.2007 as per the guidelines given by the concerned Department in the Government Order. The learned Government Advocate further contended that the third respondent has initiated departmental proceedings against erring official and imposed punishment of stoppage of increment. The petitioner belonged to Most Backward Community, while the said post was reserved only for Backward Community not entitled to be appointed and prayed for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the entire materials on record.

8. From the materials on record it is seen, after the interview conducted for the post of Noon Meal Organiser, the petitioner was issued appointment order dated 20.09.2007. But she was not allowed to join when she went to join the duty. According to the third respondent, the appointment order of the petitioner was cancelled by the order dated 25.09.2007 and the

same was issued to the petitioner. There is nothing on record to show that the said order was served on the petitioner. When the petitioner was not allowed to join the post, she gave a representation dated 28.09.2007 and also filed W.P.No.31970 of 2007. This Court by the order dated 04.10.2007 directed the third respondent to consider the representation of the petitioner taking into consideration the appointment order dated 20.09.2007 issued to the petitioner and shall act on the same. Even after, the third respondent has not passed any order on the representation of the petitioner as per the order of this Court dated 04.10.2007. According to the petitioner the third respondent by the letter dated 02.11.2007 called the petitioner for enquiry on 05.11.2007 at 9.30 A.M. at Perambalur in the office of the third respondent to conduct an enquiry with regard to appointment order, cancellation order and order of this Court. The third respondent in the counter affidavit has stated that the representation of the petitioner was rejected on the ground that representation of the petitioner is not acceptable as per the guidelines of the Government Order and the said post was reserved only for Backward Community. The third respondent has not stated anything in the counter affidavit when the representation of the petitioner was rejected to show that the third respondent complied with the direction of this Court in the order dated 04.10.2007 made in W.P.No.31970 of 2007. The third respondent has also not stated anything in the counter affidavit when the order rejecting the representation of the petitioner was served on the petitioner. When the Writ Petition is taken up for hearing, the learned Government Advocate appearing for the respondents produced the proceedings of the District Collector dated 07.11.2007 made in R.C.No.10820/2007/NMP-1, by which the third respondent rejected the representation of the petitioner. This Court directed the third respondent to consider the representation of the petitioner taking into consideration the appointment order issued to the petitioner and act on the same. In the said order, the third respondent has not considered the appointment order issued to the petitioner as directed by this Court and has rejected the same based on the Government Order alleged to have issued by concerned Department. From the copy of the order dated 07.11.2007 produced by the learned Government Advocate it is seen that the alleged action taken against erring officials is hand written and there is no proof that the said order was served on the petitioner. The third respondent has not denied the contention of the petitioner that the persons belonging to various communities were called for interview and it is not the case of the third respondent that only the persons belonging to Backward Community were called for interview and by mistake interview card was sent to the petitioner and appointment order dated 20.09.2007 was issued to the petitioner.

9. Considering all the above materials in entirety, it is clear that the third respondent has acted in a very irresponsible manner unbecoming of District Collector, administering the entire District. By this irresponsible act of the third respondent and not complying with the order of this Court dated 04.10.2007 referred to above, the third respondent has caused mental agony and irreparable loss to the petitioner. The petitioner was aged 34 years at the time of filing the Writ Petition in the year 2007 and she had now crossed the age for appointment in the Government. In view of the above, the petitioner is entitled to compensation for the wrong done to her and causing mental agony. It will be in the interest of justice, if the respondents are directed to pay a sum of Rs.10,00,000/- as compensation to the petitioner. Therefore, the respondents and the District Collector, Ariyalur are directed to pay a sum of Rs.10,00,000/- as compensation to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The District Collector, Ariyalur is directed to ensure that the compensation is paid to the petitioner within the time limit fixed by this Court.

10. With the above direction, this Writ Petition is disposed of with costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

krk

To

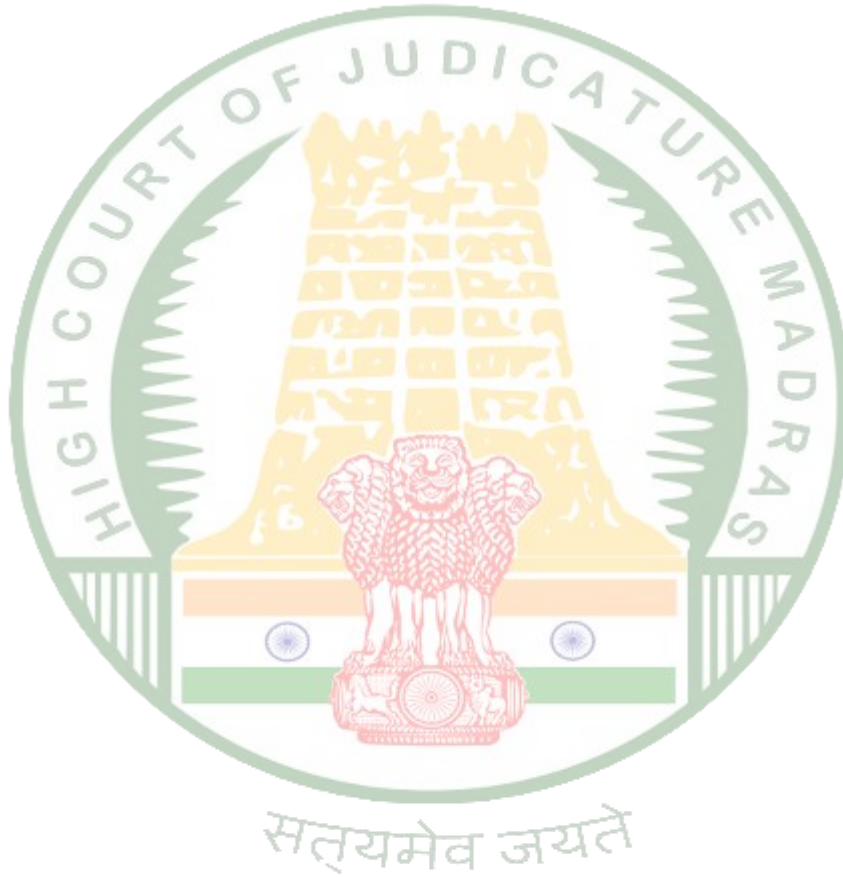
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+1cc to Mr.G.Purushothaman, Advocate, S.R.No.69688
+2cc to Mr.R.S.Selvam, Advocate, S.R.No.69867 & 70026
+1cc to the Government Pleader, S.R.No.70229

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NMI (CO)
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