

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.25588 of 2008 and MP No.1 of 2009

V.Sivagnanam

... Petitioner

Vs

1. The District Collector,  
Villupuram District,  
Villupuram.
2. The Personal Assistant to the District Collector (Nutrition),  
Office of the District Collector,  
Villupuram.
3. The Commissioner,  
Mugaiyur Panchayat Union,  
@ Manampoondi,  
Villupuram District.
4. Smt. Sumathi

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order issued by the 2nd respondent in proceedings No.BE4/1036/2007 dated 29.07.2008 and quash the same in respect of the 4th respondent is concerned and consequently direct the respondents 1 and 2 to appoint the petitioner in the post of Assistant Cook in Panchayat Union Primary School, Nathankatuvetti, Mogaiyur Panchayat Union, Villupuram District with all attendant benefits.

For Petitioner : Mr.R.Premnarayan

For Respondents : Mrs.K.Bhuvaneswari  
Additional Government Pleader  
for R1 to R3.  
Mr.M.Devaraj for R4

## O R D E R

The challenge in the writ petition is to the order dated 29.07.2019 in Ref. No.BE4/1036/2007 dated 29.07.2008, by which, the 4th respondent was appointed as Assistant Cook and for a direction to the 1st respondent to appoint the petitioner in the post of Assistant Cook in Panchayat Union Primary School, Nathankatuvetti, Mogaiyur Panchayat Union, Villupuram District with all attendant benefits.

2. The petitioner is a widow. Her husband one Viswanathan died in harness on 21.04.2000. The 1<sup>st</sup> respondent /District Collector, Villupuram made a publication on 03.03.2007 in the local Newspaper, calling for applications for recruitment to the post of Assistant Cook in Panchayat Union Primary School at Nathankaduvetti, Mogaiyur Panchayat Union. The petitioner submitted an application for the said post under the category of Widow and she was called for an interview on 02.03.2007. Thereafter, the petitioner went to attend the interview with all necessary certificates. The petitioner being a widow, was entitled for preference over other candidates in terms of the publication/advertisement. The 2nd respondent, vide proceedings No.BE4/1036/2007 dated 29.07.2008, appointed the 4th respondent as Assistant Cook. Challenging the said appointment, the present writ petition has been filed.

3. The learned counsel for the petitioner states that the petitioner being a widow, which the 4th respondent is not and therefore, the petitioner deserves to be appointed in her place. The learned counsel for the petitioner would further submit that the 2nd respondent without considering the fact that the petitioner being a widow, appointed the 4th respondent as a Assistant cook. This is against the advertisement issued by the 1st respondent dated 03.03.2007. The Counsel for the petitioner therefore, prays for quashment of the same.

4. The learned counsel appearing for the 4th respondent submits that preference can be given to the petitioner, only if the widow is facing indigenous circumstance and in the absence of any material to show that the petitioner was in financial stress, preference cannot be given to her even though she is a widow.

5. The contention raised by the 4th respondent cannot be accepted for the reason that the petitioner states that she is widow and requested to give preference in the matter of appointment. There is no condition that the widow must be in indigent condition and only then she can be appointed. That

being so, the appointment of the 4th respondent is contrary to the terms of the publication issued by the 1st respondent. The order passed by the 2nd respondent is, therefore set aside and the respondents are directed to consider the application submitted by the petitioner for appointment to the post of Assistant Cook, in case no other widow or destitute widow had appeared in the interview. If there were other widows who had appeared in the interview, then it is for the 2<sup>nd</sup> respondent to select the most suitable candidate to the post of Assistant Cook.

6. Accordingly, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,  
Villupuram District,  
Villupuram.
2. The Personal Assistant to the District Collector (Nutrition),  
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3. The Commissioner,  
Mugaiyur Panchayat Union  
@ Manampoondi,  
Villupuram District.

+1 cc to M/s.R.Prem Narayan, Advocate Sr.No. 80990  
+1 cc to M/s.M.Devraj, Advocate Sr.No. 81394  
+1 cc to The Government Pleader Sr.No. 81626

AKM/21.11.19/3P-7C /

W.P.No.25588 of 2008