

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6455 of 2018 and
W.M.P.Nos.7975 & 7976 of 2018

M.Kamatchi

.. Petitioner

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Personal Assistant to District Collector (Noon Meal),
O/o. District Collector,
Dharmapuri District,
Dharmapuri - 636705.

3. Yashotha

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent in Pro.Na.Ka.No.1521/2016/X1 dated Nil.11.2017, quash the same and issue consequential directions to first and second respondents herein to appoint the petitioner as Cook Assistant in the Panchayat Union Elementary School, Poonathanahalli Panchayat Union, Dharmapuri District.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents 1 & 2 : Mrs.P.Rajalakshmi
Additional Government Pleader

O R D E R

The order of appointment issued by the second respondent appointing the third respondent as Cook Assistant is under challenge in the present writ petition.

2 The learned counsel for the petitioner states that the petitioner is a widow and her husband died on 03.09.2012. The petitioner is having two children and she is a 10th failed candidate and accordingly qualified for the post of Cook Assistant. Pursuant to the notification dated 08.03.2017, the petitioner submitted her application to participate in the process of selection for appointment to the post of Cook Assistant at Panchayat Union Elementary School, Poonathanahalli, Karimangalam Panchayat Union.

3 The learned counsel for the petitioner states that there was an irregularity in respect of conduct of selection process and the case of the writ petitioner was not properly considered by the committee constituted for the purpose of conducting the selection process. The grounds raised by the writ petitioner is that the third respondent had not been appointed in accordance with the norms prescribed under the G.O.Ms.No.163 SW & NMP Dept., dated 18.08.2010. The third respondent was appointed on extraneous considerations and on political influence.

4 This apart, the learned counsel for the petitioner states that the third respondent crossed the age limit of 40 years and further, the writ petitioner is a widow and the third respondent is not a widow. All these aspects was not considered by the authorities concerned and issued an appointment order in favour of the third respondent in violation of the procedures and the norms fixed by the Government in G.O.Ms.No.163.

5 The learned Additional Government Pleader opposed the contentions raised on behalf of the writ petitioner by stating that both the writ petitioner as well as the third respondent submitted their respective applications for appointment to the post of Cook Assistant, pursuant to the notification issued by the competent authorities. The duly constituted committee conducted the selection process and the entire events took place in the process of selection are narrated in the counter affidavit filed by the second respondent which all are extracted here under:

"1.The petitioner Tmt.Kamatchi has submitted her application for the post of Cook Assistant in the Noon Meal Centre at Poonathanahalli Panchayat Union Elementary School, in Karimangalam Union during March 2017 An interview for the post of Cook Assistant had been conducted on 19.07.2017 with as much as 4 members consisting the team of 1) Block Development Officer, 2) Assistant project Officer 3) Personal Assistant to Collector (Elections), Dharmapuri 4) District Backward Class Officer, Dharmapuri in that team. By Communal rotation, as envisaged in G.O.Ms.No.142 P & AR Dept.,

dated:14.10.2009, for the post of Cook Assistant in the Noon Meal Centre at Poonathanahalli Panchayat Union Elementary School, in Karimangalam Union was allotted as General (Non-Priority). The Interview was conducted at Pt.Union officer Karimangalam. There are 6 people belong to General Category had participated in the interview.

2.Among the candidates attended, the 3rd Respondent Tmt.Yasotha belongs to Most Backward Class Community was selected based on the highest marks earned by the individual with respect to the requisite qualification prescribed vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010. She was temporarily appointed in the post of Cook Assistant Cook Assistant in the Noon Meal Centre at Poonathanahalli Panchayat Union Elementary School, in Karimangalam Union. vide Collector, Dharmapuri Proceedings order No.1521/2016/X1, Dated 14.11.2017 with the conditions subject to the genuineness of the Community Certificate, Education Certificate and Nativity certificate.

3.It is true and correct that the petitioner is Belongs to Most Backward Class community. and the communal rotation for the said Vacant post is meant for General (Non-priority) based on the Communal Rotation fixed for the District Units as envisaged in G.O.Ms.No.142 P & AR Dept., dated:14.10.2009. There are 6 candidates belong to General Category have attended the interview and the 3rd respondent who earned highest marks was selected with respect to the Norms laid down vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010. The comparative Marks Earned by Both Petitioner and the 3rd respondent are as follows:

Factors	Marks earned by the petitioner	Marks earned by the 3 rd respondent
Educational qualification	5	5
Non-priority status (/Destitute/Widow/No. of Children)	10	10

Factors	Marks earned by the petitioner	Marks earned by the 3 rd respondent
Distance between School and residence	2 (3km)	5 (1Km)
Age	3	5
Family status (legal heir/children age/Earning status of Male child/Female child)	3	3
Physical Fitness	9	8
Knowledge on Noon Meal	5	10
Total Marks Earned	37	46

4.As far as the Distance factor is concerned, Both the petitioner has scored 3 marks since she is residing within 3 km radius from the Noon Meal centre whereas the 3rd respondent has scored 5 Marks as she is residing within 1km radius from the noon meal centre with respect to the condition laid down vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated.16.08.2010. The petitioner has scored 5 marks for the factor considering the Knowledge on Noon Meal whereas the 3rd respondent has scored 10 marks.

5.The Additional Marks were awarded to the 3rd respondent by the interview team according to her Knowledge on Noon Meal. As far as the factor for Non-priority status(/Destitute/Widow/No. of Children) is concerned, the petitioner has scored 10 marks and the 3rd respondent has also scored 10 Marks with respect to the condition laid down vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010. As far as Family status (legal heir/children age/Earning status or Male child/Female child) is concerned the petitioner has scored 3 Marks and the 3rd respondent has also scored 3 marks only. As far as the factor for Physical fitness is concerned, both the petitioner has scored 9 marks whereas the 3rd respondent has scored 8 Marks only As far as the factor for age is

concerned, the petitioner scored 3 marks as she is belongs to above 21 to 29 years category whereas the 3rd respondent has scored 5 marks only as she is belongs to above 39 years category with respect to the condition laid down vide G.O.Ms.No.163/Social Welfare and Nutritious meal Dept/Dated 16.08.2010. As far as the educational qualification is concerned, the petitioner has scored 5 marks and the 3rd respondent also scored 5 marks with respect to the condition laid down vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010.

6.As such the marks awarded details are submitted to the First respondent with respect to the directions in para 2 of Vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010 and as such it was accorded by the First Respondent subsequently. Moreover, It is the decision of the Interview team with regard to awarding Marks to the eligible candidates according to their performance as well s their qualification possessed and all are subject to the norms laid down in Vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010. Hence the contention of the petitioner is totally incorrect. As such there is no violation of any G.Os.

7.It is submitted that there are 409 no.of vacancies panchayats in Dharmapuri District. And 25% of the posts were allotted to widow category and it was filled up with respect to the norms laid down in Vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated.16.08.2010. As far as Karimangalam panchayat Union concerned, out of 50 vacancies arisen, 13 No. of posts are filled up with widow category which comprising 25% in the total vacancies.

8.The posting of Noon Meal employees were made only based on the report of the interview team. It is true and correct that the impugned order was passed by the First respondent in Na.Ka.No.No.1521/2016/X1, Dated.14.11.2017. is in accordance with law and All procedures and guidelines of Communal Rotation were strictly adhered in this regard.

9.The Interview team had already considered the factor of Age, Non-priority status (/Destitute/Widow/No. of Children), and Distance between Noon Meal Centre and Residence and Family status(legal heir/children age/Earning status of Male child/Female child) while awarding Marks to Both

petitioner and the 3rd Respondent. It is submitted in the comparative statement shown Below.

Factors	Marks earned by the petitioner	Marks earned by the 3 rd respondent
Educational qualification	5	5
Non-priority status (/Destitute/Widow/No. of Children)	10	10
Distance between School and residence	2 (3km)	5 (1Km)
Age	3	5
Family status (legal heir/children age/Earning status of Male child/Female child)	3	3

As such the marks awarded details are submitted to the First respondent with respect to the directions in para 2 of Vide G.O.Ms.No.163/Social Welfare and Nutritious meal Dept/Dated 16.08.2010 and such it was accorded by the First Respondent subsequently. Moreover, It is the decision of the Interview team with regard to awarding Marks to the eligible candidates according to their performance as well as their qualification possessed and all are subject to the norms laid down in Vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated.16.08.2010. Hence the contention of the petitioner is totally incorrect. As such there is no violation of any G.Os.

10.The posting of Noon meal employees were made only based on the report of the interview team. It is true and correct that the impugned order as passed by the First respondent in Na.Ka.No.No.1521/2016/X1, Dated14.11.2017, is in accordance with law and all procedures and guidelines of Communal Rotation were strictly adhered in this regard. It is submitted that there are 409 no. of vacancies panchayats in

Dharmapuri District. And 25% of the posts were allotted to widow category and it was filled up with respect to the norms laid down in Vide G.O.Ms.No.163/Social Welfare and Nutritious Meal Dept/Dated 16.08.2010. As far as Karimangalam Panchayat union concerned, out of 50 vacancies arisen, 13 No. of posts are filled up with widow category which comprising 25% in the total vacancies."

6 In view of the fact that this Court did not find any irregularity or illegality in the process of selection, the relief as such sought for in the present writ petition deserves no consideration.

Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The District Collector,
Dharmapuri District, Dharmapuri.
2. The Personal Assistant to District Collector (Noon Meal),
O/o. District Collector,
Dharmapuri District, Dharmapuri - 636705.

+1 cc to Mr.R.Thamarai Selvan, Advocate SR.No.13159

+1 cc to The Government Pleader, SR.No.14082

W.P.No.6455 of 2018 and
W.M.P.Nos.7975 & 7976 of 2018

KJ(CO)
CSL/19.03.2019

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