

IN THE HIGH COURT OF JUDICATURE AT MADRAS

02.04.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.4594 of 2011
and
M.P.Nos.1 and 2 of 2011

M.Selvi

... Petitioner

vs.

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Block Development Officer,
Harur Panchayat Union,
Harur, Dharmapuri District.

3.J.Meena

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certioerarifed mandamus to call for the records of the first respondent in Pro.Na.Ka.No.26040/09/X1, dated .09.2010 and to quash the same and issue consequential directions to the first respondent to appoint the petitioner as Cook at Panchayat Union Elementary School, Theerthamalai, with retrospective effect from the date of appointment of the second respondent with all consequential benefits.

For Petitioner .. Mr.K.Nagarajan

For Respondents .. Mr.J.Ramesh,A.G.P.for R1 and R2
No appearance for R3

ORDER

The petitioner claims herself to belong to Most Backward Community and also a destitute Widow. She was a native of Mampatty Village and has passed 5th standard. In 2009, a Notification was issued on behalf of the official Respondents,

inviting applications for filling up the post of 'Cook'. The petitioner had applied for the same, since she fulfilled the qualification as prescribed in the Notification. However, after the selection, the 3rd respondent was appointed, vide the impugned proceedings dated September 2010 and the said proceedings is the subject matter of challenge in the present writ petition.

2. According to the learned counsel for the petitioner, as per the original Notification dated 23.01.2009, preference should be given to Widow and the petitioner being a Widow, unfortunately has not been given preference and the third respondent has been selected to the said post. The learned counsel would submit that in all other aspects, the petitioner fulfilled the qualification, as she hails from the village which is within 10 Kms from the place of work and she can also read and write in Vernacular language, as per her educational qualification. Unfortunately, for some reason, she has been over looked and the third respondent has been selected.

3. This Court, on the last occasion wanted to know whether there was any vacancy available in view of the fact that the third respondent has been selected and appointed and she has been working for about seven years.

4. The learned counsel appearing for the official respondents would submit that as on date, there is no vacancy in the post for which the petitioner originally applied for consideration. In any event, from the materials and the pleadings placed on record it is seen that the petitioner was unjustly overlooked in the matter of appointment to the post of Cook in the subject selection, although she was admittedly a widow and belongs to preferential category, as mentioned in the Notification itself. However, in view of the fact that the third respondent, who has been selected and appointed and had been working as such for the last seven years and also the fact that she belongs to Scheduled Caste, this Court is not inclined to disturb her appointment, but at the same time, this Court is of the considered view that the right of the petitioner to be selected to the post of 'Cook' cannot be denied without any valid reasons by the official respondents.

5. In the above said circumstances, the writ petition is disposed of by directing the first and second respondents to consider the claim of the petitioner for appointment as 'Cook', in terms of her qualification and in terms of her preferential status being a Widow, in any of the Noon Meal Centers nearby. Such claim ought to be considered by the respondents 1 and 2, since the claim relates back to the date of appointment of the third respondent dated September 2010, within a period of twelve

weeks from the date of receipt of copy of this order. Any decision taken in this regard shall be communicated to the petitioner.

6.The writ petition stands disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

msk

To

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Block Development Officer,
Harur Panchayat Union,
Harur, Dharmapuri District.

+1cc to Mr.K.Nagarajan, Advocate SR.No.31480

+1cc to Government Pleader SR.No.32744

W.P.No.4594 of 2011

NRL (CO)
GMY (03/05/2019)

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