

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-04-2019

CORAM

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

W.P.No.21086 of 2018

Thenmozhi

..Petitioner

..Vs..

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The Block Development Officer,
Kammapuram Block,
Kammapuram,
Virudhachalam (Taluk),
Cuddalore District.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the rejection order in Na.Ka.No.1298 of 2018 dated 7/2018 with enclosure of notification of the first respondent and quash the same in so far as the Serial No.5 is concerned and consequently directing the first and second respondents to consider the petitioner name for appointment to the post of Noon Meal Organizer at Panchayat Union Primary School, P.K.Veeratikuppam, Kammapuram Block, Cuddalore District based on the earlier selection.

For Petitioner : Mr.M.Pari

For Respondents: Mr.D.Suriya Narayanan,
Additional Government Pleader.

O R D E R

The order of rejection dated July 2018 issued by the first respondent, which is nothing but a Recruitment Notification, is sought to be quashed in the present writ petition.

2. Consequential direction is sought to be issued to the respondents 1 and 2 to consider the writ petition for appointment to the post of Noon Meal Organizer at Panchayat Union Primary School, P.K.Veeratikuppam, Kammapuram Block, Cuddalore District.

3. The grievance of the writ petitioner is that she passed X Standard and failed Higher Secondary Course. The writ petitioner registered her name along with the educational qualifications and other preferential Certificates in the District Employment Exchange at Cuddalore. The writ petitioner is a destitute widow and living with her sister.

4. This apart, the writ petitioner is a differently abled person and therefore, she has to secure an employment for the purpose of her livelihood.

5. The learned counsel for the writ petitioner states that pursuant to the Recruitment Notification, the writ petitioner participated in the process of selection and attended the interview on 18.2.2017 at the first instance and the said selection was cancelled by the authorities. The second interview was conducted on 28.3.2018 and that also was cancelled. Thirdly, the writ petitioner participated in the interview on 25.5.2018 and the said selection process was also not proceeded with and no candidate was employed in the post of Noon Meal Organizer.

6. Now the respondents have issued another Recruitment Notification inviting application from the eligible persons on fourth occasion and the learned counsel for the writ petitioner states that the very cancellations done for three occasions is doubtful and the authorities competent are wantonly postponing the appointment for the post of Noon Meal Organizer in the particular post.

7. This Court is of the considered opinion that if at all the selections are cancelled at the instance of the Department, the candidates cannot seek a direction to appoint the particular candidate. The power of the judicial review under Article 226 of the Constitution, cannot be exercise for the purpose of issuing a direction to appoint a candidate who participated in the process of selection.

8. The decision regarding the cancellation of selection is the administrative prerogative of the employer. If at all such decisions are undertaken with some illegality, then it is left open to the candidates to question the manner in which such selections were cancelled. Contrarily, the Court cannot issue any direction to consider such candidates for appointment.

9. All appointments are to be made strictly in accordance with the Recruitment Rules in force. Equal opportunity in public employment is the constitutional mandate. All eligible persons are to be appropriately given an opportunity to participate in the process of selection while undertaking the selection process by the competent authorities.

10. A mere participation in the process of selection would not confer any right on the candidate to seek a direction from the Court for securing appointment nor Courts can issue any such directions. In the absence of establishing that the authorities have committed certain malpractices, corrupt activities or illegalities.

11. Though the learned counsel for the writ petitioner states that the authorities competent had wantonly cancelled the earlier selections, there is no sufficient evidence on record to establish such mala fides or allegations against such cancellations.

12. The learned counsel for the writ petitioner further states that in respect of the other primary School, a single candidate, who participated in the selection process was appointed. Thus, similar benefits are to be extended to the writ petitioner on par with the other candidates.

13. This Court is of the considered opinion that in respect of the other selections, the facts and particulars are not placed before this Court. This apart, the manner in which such selection was conducted is also not placed. Even in case of any such practice in earlier circumstances, they would not constitute any ground to claim appointment on this basis. It is necessary to be clarified that a particular wrong precedent cannot provide a cause for extension of such benefit which was otherwise granted not in accordance with the procedures contemplated or in violation of the Recruitment Rules in force.

14. All appointments are to be made strictly by following the Rule of Reservations as well as by following the procedures contemplated.

15. In the present case on hand, the learned counsel for the writ petitioner states that the writ petitioner alone is the eligible candidate for appointment to the post of Noon Meal Organizer.

16. Be that as it may.

17. This Court cannot go into those aspects in view of the fact that the selection itself was cancelled and such an

administration decision taken by the authorities would not provide any cause for the writ petitioner to file the present writ petition and seek for an appointment.

18. This being the legal principles to be followed, it is left open to the writ petitioner to participate in the process of selection pursuant to the Recruitment Notification and if the posts are decided to be filled up by the authorities, then the case of the writ petitioner is to be considered along with all other candidates, who all are aspiring to secure public employments through open competitive system.

19. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Svn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
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2.The Block Development Officer,
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