

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21397 to 21402 of 2018

and

WMP.Nos.25096, 25098, 25100, 25102, 25104, 25106 of 2018

Pachammal ...Petitioner in WP.NO.21397/18

Petitioner in WP.21398- WP.21402:

K.Kavitha ... Petitioner in WP.NO.21398/18

Thamaraiselvi ... Petitioner in WP.NO.21399/18

Saritha ... Petitioner in WP.NO.21400/18

Santha ... Petitioner in WP.NO.21401/18

Valliammal ... Petitioner in WP.NO.21402/18

Vs

The District Collector,  
Krishnagiri District,  
Collectorate,  
Krishnagiri.

...Respondent in all the Petitions

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.27907/2015/X1 dated 05.04.2018 on the file of the respondent and quash the same; consequently direct the respondent to give appointment to the petitioner as Noon-Meal Organizer on priority basis without reference to the conditions of upper age limit and distance of residence within a reasonable time.

For Petitioner : **\*Mr.C.Mahendran**

For Respondents : Mr.A.N.Thambidurai  
Spl.Govt.Pleader  
(for all the writ petitions)

COMMON ORDER

The order impugned dated 05.04.2018, stating that, in the event of submitting application pursuant to the recruitment notification by the writ petitioner, the case of the writ

petitioners will be considered as per the Government orders issued in G.O.Ms.No.163 dated 18.02.2010 and as per the eligibility and qualification prescribed is under challenge.

2. All these writ petitions are filed mainly on the ground that, the writ petitioners are entitled to be appointed as Noon Meal Organisers on priority basis without reference to the conditions of upper age limit and distance of residence within a reasonable time to be fixed. The learned counsel for the writ petitioner states that, the claim of the writ petitioners for appointment to the post of Noon Meal Organisers are negated on the ground that they are not eligible.

3. This Court is of the considered opinion that, appointment per se, cannot be claimed as matter of right. All appointments are to be made strictly in accordance with the recruitment Rules in force. However, equal opportunity in participation is the Constitutional requirement and accordingly, all the eligible persons who all are aspiring to secure employment must be permitted to participate in the process of selection, which is to be conducted in accordance with the procedures contemplated in the Rules.

4. If at all the writ petitioners are fully qualified as per the Rules in force, they will be getting an opportunity to participate in the process of selection. However, without participating in the process of selection, the writ petitioners cannot seek an appointment to a particular post, namely Noon Meal Organisers.

5. Recently, the Hon'ble Supreme Court of India, in the case of Zhoor Ahmad Rather & Others Vs. Sheikh Imtiyaz Ahmad & Others, reported in 2019 (2) SCC 404, held as follows:-

"26. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] in the subsequent decision in Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329]. The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon

the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in *Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664]* turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench [*Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)*] of the High Court was justified in reversing the judgment [*Zahoor Ahmad Rather v. State of J&K, 2017 SCC OnLine J&K 936*] of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision [*Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)*] of the Division Bench."

6. The Apex Court in unambiguous terms reiterated that, the State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine.

7. It is made clear that, it is the prerogative of the Authorities Competent to prescribe the conditions of service and the qualifications, age limit etc., for recruitment to a particular post or cadre. The Judicial review against such decisions taken by the Authorities Competent are certainly limited. Only if the qualifications prescribed by the Authorities Competent are unconstitutional or in violation of the Statutory provisions, then alone the High Courts can exercise the power of Judicial review and not otherwise.

8. This being the principles to be followed, this Court is of an opinion that, the relief as such sought for to appoint the writ petitioners cannot be granted. However, the writ petitioners are at liberty to participate in the process of

selection, if any recruitment notification is issued for appointment to the post of Noon Meal Organisers, if the writ petitioners are otherwise qualified and eligible in accordance with the Rules as well as the conditions stipulated in the notification. With these observations, these writ petitions stands dismissed. No Costs.

Sd/-/-

Assistant Registrar(Co)

Dated:25/04/2019

\*Corrected order to go

Sd/-

Assistant Registrar(CS-IV)

Dated:27/06/2019

//True Copy//

Sub Assistant Registrar

Pkn

To

The District Collector,  
Krishnagiri District,  
Collectorate,  
Krishnagiri.

To be substituted to the order  
already despatched on 27.04.2019

+1 cc to Government Pleader SR.NO. 36307

**\*+6cc to Mr.C.Mahendran, Advocate Sr.35466**

W.P.Nos.21397 to 21402 of 2018

A.SK(25/04/2019)

srg 28/06/2019

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