

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.06.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA

W.A.No.1573 of 2019

S. Boopalan

..Appellants

vs

1.The Government of Tamil Nadu
Represented, by its Secretary,
Social Welfare and Nutritious Meal Department,
Secretariat,
Chennai-9

2. The Director of Social Welfare,
Directorate of Social Welfare,
SIDCO Old building Campus,
Guindy,
Chennai-32

3. The District Collector,
Krishnagiri District,
Krishnagiri.

4. Block Development Officer,
Uthangarai,
Krishnagiri District.

.. Respondents

WEB COPY

Prayer: Writ Appeal is filed to set aside the order passed by this Hon'ble Court in W.P.No.22721 of 2018 dated 21.03.2019 and pass such further or orders as this Hon'ble Court may deem fit.

W.P.No.22721 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of order or orders or direction particularly in the nature of Writ of Mandamus, directing the 3rd respondent to consider the petitioners application for appointment in the post of Noon-meal Organizer on compassionate ground by accommodating the petitioner in the available vacancies in Uthangarai Panchayat Union Krishnagiri District without reference to the Government order in G.O.No.163 Social Welfare and Nutritious Meal Scheme Department dt.18.08.2010 and Government order in G.O.No.78 Social Welfare and Nutritious Meal Scheme Department Dt.25.10.2016 within a reasonable time.

For Petitioner : Mr. Neelakandan for
Mr. C. Mahendran
For Respondents : Mr. A. Srijayanthi, Spl.G.P.

JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

This intra court appeal is filed challenging the order passed by the learned Single Judge in W.P.No.22721 of 2018 rejecting the appellant's request seeking a direction to the 3rd respondent to consider his application for appointment to the post of Noon Meal Organizer on compassionate grounds in the available vacancy in the Uthangarai Panchayat Union, Krishnagiri District without reference to the Government order in G.O.No.163, Social Welfare and Nutritious Meal Scheme Department dated 18.08.2010 and Government order in G.O.No.78, Social Welfare and Nutritious Meal Scheme Department dated 25.10.2016 within a reasonable time.

2. Mr.Swaminathan, father of the appellant herein was working as Noon Meal Organizer and died in harness on 04.02.2006. Being one of the legal heir of the deceased Swaminathan, the appellant herein had made an application for compassionate appointment on 05.04.2008. However, the said request for compassionate appointment was turned down by the 4th respondent on the ground that he was aged 23 years and for the post of a Noon Meal Organizer, the candidate should have completed 25 years of age. Thereafter on reaching the requisite age, the appellant had made yet an another attempt for the post of Noon Meal Organizer.

3. In the meanwhile, the Government of Tamil Nadu has passed a Government order in G.O.Ms.No.163, Social Welfare Nutritious Meal Scheme (NMS2) Department dated 18.08.2010 in and by which the qualification for the post of Nutritious Meal Organizer stipulates that only ladies could be appointed to the said post.

4. Thereafter, the appellant appears to have made a representation to the District Collector, the 3rd respondent herein requesting him to relax the condition that only women candidates can be appointed, considering the indigenous circumstances in which he was placed and on a compassionate ground. The appellant had enclosed all the necessary documents for the consideration of the respondents. In fact, the Rural Development Officer, Uthangarai had also sent a communication to the 3rd respondent recommending the case of the appellant. However, there was no response from the third respondent constraining the appellant to file the above Writ Petition which ended in a dismissal. Challenging the said order, the appellant is before this Court.

5. Heard Mr.Neelakandan, learned counsel appearing on behalf of the C.Mahendran, learned counsel for the appellant and Mrs.A.Sirjayanthi, Special Government Pleader appearing for the respondents.

6. From the perusal of the papers, it is seen that the appellant filed an application for compassionate appointment as soon as his father had passed away and the only ground on which he was not considered was that he was under aged for the post.

8. However, on a perusal of the G.O.Ms.No.163 dated 18.08.2010, it is seen that the age prescribed for a Nutritious Meal Organizer in the Open community (unreserved) and Scheduled cast Community was 21 years not exceeding 40 years and with reference to the Schedule Tribe Community, it was 18 years not exceeding 40 years. However, by introduction of G.O.Ms.163, the appellants chances for applying for the posts of Nutritious Meal Organizer has been taken away since the Government had come forward with a policy decision that only ladies would be appointed to this post. Though we do not find any scope for interference with the order of the learned Single Judge, we however direct the respondents to consider the case of the appellant for compassionate appointment to any post to which he would be suited with his present qualification and if necessary by granting relaxation in age. The respondents shall Consider the fact that there has been no delay on the part of the appellant in making the application and that as on the date of making the application, men were also being appointed as Nutritious Meal Organizers. The respondents should also take

into account the fact that by reason of the present Government order, the age of Nutritious Meal Organizer has been reduced to 21 years as against the 25 years stipulated at the relevant time when the appellant had made his application.

The Writ Appeal is disposed of with the above direction.
No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

mrn

To

1. The Government of Tamil Nadu
Represented, by its Secretary,
Social Welfare and Nutritious Meal Department,
Secretariat,
Chennai-9

2. The Director of Social Welfare,
Directorate of Social Welfare,
SIDCO Old building Campus,
Guindy,
Chennai-32

3. The District Collector,
Krishnagiri District,
Krishnagiri.

4. Block Development Officer,
Uthangarai,
Krishnagiri District.

+1 CC to Mr.C.Mahendran, advocate sr 49892.
+1 CC to The Govt. Pleader sr 50119.

W.A.No.1573 of 2019

RGN(CO)
SP(22/07/2019)