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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.[MD]No.2946 of 2019

S.Bharathi

: Petitioner

Vs.

1.The District Collector,
Dindigul District.

2.The Project Officer,
Integrated Child Development Scheme,
Dindigul District,
Dindigul.

3.The Child Development Project Officer,
Vadamadurai Block,
Dindigul District.

4.K.Malliga

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the third respondent to cancel the appointment made to the fourth respondent to the post of Primary Anganwadi Worker at Anganwadi Centre, Old Sithuvarpatti, Sithuvarpatti Panchayat, Vadamadurai Panchayat Union, Dindigul District and consequently, appoint the petitioner in the said post by considering the petitioner's master degree qualification in Bio-Technology Subject.

For Petitioner : Mr.R.Anand

For Respondents 1to3 : Mr.V.Anand,
Government Advocate

O R D E R

The petitioner has filed the present Writ Petition seeking a direction to the third respondent to cancel the appointment made to the fourth respondent to the post of Primary Anganwadi Worker at Anganwadi Centre, Old Sithuvarpatti, Sithuvarpatti Panchayat, Vadamadurai Panchayat Union, Dindigul District and to appoint the petitioner in the said post, by considering her master degree qualification in Bio-Technology Subject.

2. The brief facts of the case are as follows:

<https://hcservices.ecourts.gov.in/hcservices/> The petitioner applied for the post of Primary Anganwadi worker in the place of old Sithuvarpatti Centre, Vadamadurai Block, Dindigul District. On receipt of her application, the third



respondent, vide proceedings dated 28.08.2017, called for personal interview scheduled to be held on 30.08.2017, pursuant to which, she attended the interview and satisfied all the norms prescribed for selection. Immediately, on completion of her turn, the third respondent orally informed that her application was rejected for the reason, she had mentioned her husband's name in the application form instead of her father's name.

(ii) In view of the different stand taken by the third respondent with regard to the acceptance of her application, she was forced to approach this Court by filing W.P.(MD)No.16633 of 2017, in which, this Court, while disposing of the Writ Petition by order dated 04.09.2017, directed the third respondent to permit the petitioner to take part in the personal interview and to consider the case of the petitioner on par with others while preparing the selection list.

(iii) As per G.O.(Ms)No.110, Social Welfare and Nutritious Meal Programme (SW-7) Department, dated 14.05.2012, merit and ability is the first criteria for considering a candidate to be appointed to the post of Anganwadi worker and hence, the petitioner is more eligible than others.

(iv) Since no fruitful result came thereafter, the petitioner again approached this Court by filing W.P.(MD)No.21948 of 2017 seeking a direction for appointment. The said Writ Petition was disposed of by order dated 02.02.2018 directing the first respondent to finalize the selection process within two months. Despite periodical approach, so far, the claim of the petitioner was not considered. Hence, she is before this Court.

3. The learned counsel for the petitioner submitted that the petitioner attended the interview pursuant to the call letter of the third respondent. However, even before the conclusion of the interview, the third respondent in order to appoint a person of her own choice rejected the application of the petitioner, though she has acquired higher educational qualification than others. The third respondent, for the reasons best known to her, invented a flimsy reason to reject the petitioner's candidature that she had mentioned her husband's name instead of her father's name.

4. Adding further, the learned counsel submitted that as per G.O.(Ms)No.110, Social Welfare and Nutritious Meal Programme (SW-7) Department, dated 14.05.2012, it is crystal clear that the educational qualification of the candidate plays a pivotal role with regard to appointment. Therefore, while considering appointment, merit and ability is the first criteria to be considered for appointment to the post of Anganwadi worker and thus, the petitioner is more eligible to the said post. However, the third respondent took a different stand and appointed the fourth respondent. Therefore, he seeks appropriate directions.



5. The third respondent has filed a counter-affidavit contending *inter alia* that the petitioner and 7 other persons applied for the post of Anganwadi worker at Anganwadi Centre, Old Sithuvarpatti, Sithuvarpatti Panchayat, Vadamadurai Panchayat Union, Dindigul District, which is reserved for Backward Class (Non Muslim). Out of 8, the application of one person was rejected and 6 were attended the interview and one was absent. The petitioner is aged about 28 years, whereas, the fourth respondent is aged about 31 years and studied upto 12th standard. Further, the residence of the petitioner is 2 km away from the Anganwadi Centre, whereas, the residence of the fourth respondent is 1 km. Therefore, considering those aspects, the fourth respondent was appointed to the said post. The contention that the application of the petitioner was rejected for the reason that she had mentioned her husband's name in the application form instead of her father's name is factually incorrect. In fact, the petitioner was called for interview and also attended the interview on 30.08.2017. Therefore, the third respondent prays for dismissal of the Writ Petition.

6. Reiterating the averments made in the counter, the learned Government Advocate appearing for the respondents 1 to 3 has prayed for dismissing the Writ Petition.

7. I have considered the submissions made on either side and perused the materials available on record in the form of typed-set of papers.

8. Admittedly, the petitioner appeared for the interview for the post of Primary Anganwadi worker at Anganwadi Centre, Old Sithuvarpatti, Sithuvarpatti Panchayat, Vadamadurai Panchayat Union, Dindigul District, pursuant to the interview call letter dated 28.08.2017 sent by the third respondent. In the said interview, out of 8, 6 persons including the petitioner had participated. According to the petitioner, she is the most qualified person having higher educational qualification than others. But, it is the submission of the learned Government Advocate appearing for the respondents 1 to 3 that considering the age, residential status, etc., the fourth respondent was appointed to the said post. The petitioner is aged about 28 years, whereas the fourth respondent is aged 31 years. Coming to the residential status, the petitioner is residing 2 km away from the Anganwadi Centre, but, whereas, the fourth respondent is residing 1 km away. Therefore, considering all the aspects including age and distance criteria, the fourth respondent was appointed.

9. In view of the foregoing reasons, this Court is of the view that in the case at hand, the third respondent, considering the age, educational qualification and all other aspects, appointed the fourth respondent as Primary Anganwadi Worker at Anganwadi Centre, Old Sithuvarpatti, Sithuvarpatti Panchayat, Vadamadurai Panchayat Union, Dindigul District, which, in my considered view, need not be disturbed. However, the third



respondent is directed to consider the candidature of the petitioner, if any vacancy arises in future.

10. The Writ Petition stands disposed of with the above direction. No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

SML

To

1.The District Collector,
Dindigul District.

2.The Project Officer,
Integrated Child Development Scheme,
Dindigul District,
Dindigul.

3.The Child Development Project Officer,
Vadamadurai Block,
Dindigul District.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 54352

Order made in
W.P. [MD]No.2946 of 2019
Dated: 13.03.2019

TR (02.04.2019) 4P 5C