



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3016 of 2011

WEB COPY

Subbuthai

... Petitioner

vs.

1.The District Collector,
Tirunelveli.

2.The Project Officer,
Integrated Child Health
Development Scheme (ICDS),
Sankarankovil,
Tirunelveli District.

3.Muthukrishnaveni

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the first respondent in **செ.மு.ந.க.எண்.337/அ1/10** dated 23.09.2010 quash the same and consequently direct the first respondent to appoint the petitioner in the place of the third respondent.

For Petitioner : Mr.V.Perumal

For R1 & R2 : Mr.D.Muruganandham

Additional Government Pleader

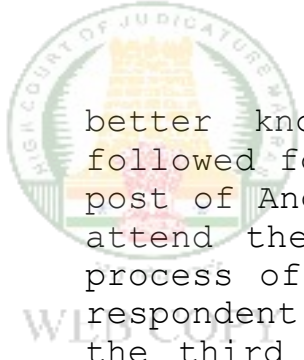
For R3 : Mr.K.Prabhu

O R D E R

The appointment of the third respondent to the post of Anganwadi Assistant is under challenge in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the selection for appointment to the post of Anganwadi Assistant was done improperly by the respondents. No established procedure for selection was followed while conducting the process of selection. The third respondent was appointed at the whims and fancies of the respondents without ascertaining the merits of the respective candidates, who participated in the process of selection. Thus, the entire selection as well as the appointment of the third respondent are liable to be scraped.

3.The learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 states that the third respondent was recommended by the selection committee on the basis of the fact that he was having good communication skills and sufficient



better knowledge about the scheme. The said criteria was followed for selecting the third respondent for appointment to the post of Anganwadi Assistant. Three candidates were called for to attend the interview. The petitioner also participated in the process of interview. The respondents identified that the third respondent is more aged, wise senior therefore, they have selected the third respondent and appointed him. Except by stating that the third respondent is wise, having better knowledge, the counter did not speak anything about the procedure followed by the interview committee for the purpose of selecting the candidates. The manner in which the selection was conducted apparently shows that there is a probabilities of favoritism and nepotism. The process of selection was not transparant. The assessment of merits made was undoubtedly improper. However, the fact remains that the third respondent was appointed during the year 2011 and she is working as Anganwadi Assistant for the past more than 8 years in the centre. At this length of time, it is not preferable to un-settle the appointments and even in such a case, this Court cannot issue directions to appoint the writ petitioner by conducting re-selection after this length of time, will not serve any purpose. However, in W.P.(MD)No.7188 of 2011, dated 07.06.2019 this Court has passed the following orders.

"7. This Court is of the considered opinion that all appointments are to be made under the constitutional schemes and strictly in accordance with the recruitmet rules in force. Equal opportunity in public employment is the constitutional mandate. The authorities competent are bound to follow the rules scrupulously.

8. In the event of any malpractice, illegality, irregularity and corrupt activity in the process of selection, undoubtedly, the entire process of selection is to be declared as void and unconstitutional. Following the established principles in the matter of selection is of paramount importance. The merit assessment is to be made by properly awarding marks on different heads and such an assessment can never be at the whims and fancies of the competent authorities. There must be a logic behind in awarding the marks even in the process of interview. Any illogical method for the purpose of selection is to be declared as unconstitutional. This apart, interview marks should not exceed 15% of the total marks to be awarded for the purpose of selection. Thus, the logical approach and proper merit assessment on the basis of the criterias required for selection and appointment to a particular post are the vital components required under law. In the event of any such lapse or lacuna, the Courts



should not hesitate in quashing the entire process of selection.

9. On examination of the present case on hand, it is seen that though the writ petitioner states that the fourth respondent was appointed on account of malpractice and corrupt activities, the statement has not been substantiated nor established so as to quash the appointment made in the year 2011, more specifically, now after a length of about eight years.

10. Though this Court is not inclined to quash the appointment of the fourth respondent on the factual ground that the fourth respondent is already continuing in service for more than eight years and there is no sufficient evidence to quash the entire process of selection, there is a concrete doubt in the mind of this Court that these kind of appointments are made without following the established procedures to be followed for the purpose of selection and appointment. Appointments to the Group-IV Services are made on favouritism and nepotism. Persons of choice are being appointed by these authorities. The Group-IV Services are also undoubtedly important for the effective public administration. Thus, the selection for Group-IV Services is also to be conducted in consonance with the rules and by following the established principles for selection. It is painful to pen down that there are large scale allegations in respect of such appointments made to the post of Group-IV Services. Such large scale allegations are in the public domain. People are of the opinion that the posts, like, Night Watchman, Office Assistant, Sweeper, Gardener, Scavenger etc., are filled up mostly on favouritism and nepotism. Corrupt activities are also cannot be ruled out. Thus, it is just and necessary to direct the authorities to follow the rules scrupulously and conduct the interview and the selection process in a full proof method so as to ensure that the best candidates are selected and appointed for effective and efficient public administration.

11. The entire appointments made only based on the oral interview, in the opinion of this Court, is unconstitutional. Scope for favouritism, nepotism and corrupt activities are wide open. Any system should not pave way for such loopholes for the authorities. Checks and balances are the effective elements in our constitutional system. Thus, any system or procedures to be followed, which paves way for nepotism,

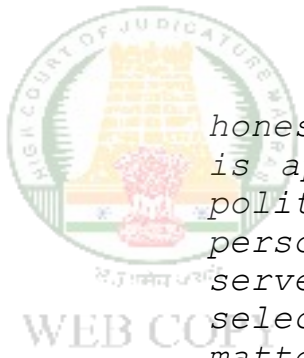


favouritism and corrupt activities, are to be immediately looked into and all suitable actions are to be initiated to fill-up the gap and ensure that the selections are made under the constitutional schemes and the meritorious candidates are selected and appointed by providing equal opportunity enshrined under the Constitution of India.

12. The present practice prevailing mostly across the State of Tamil Nadu is that the interview marks alone are being taken into account for the purpose of appointing candidates, more specifically, for the posts of Village Assistant, Noon Meal Organizer, Night Watchman, Sweeper, Office Assistant, Scavenger etc. Such a procedure deserves a drastic change in order to correct the ill-motives of the Executives and to prevent them from indulging in corrupt activities and the officials, who all are yielding and succumbing to the illegal requests and influences of the higher officials as well as the local politicians. All appointments to the Group-IV Services and other Last Grade Services are to be made only by conducting written examinations. The interview marks to be awarded by the competent Committee should not exceed 15% of the total marks fixed for selection. 85% of the marks to be divided for written examinations and other eligible criterias prescribed under the relevant recruitment rules in force. Accordingly, a merit list is to be prepared and consequently, selection and appointment is to be made in accordance with the merit and by following the rule of reservation.

13. This Court is witnessing innumerable number of litigations challenging the appointments to these Last Grade Services. All these writ petitions are filed mostly on the grounds of favouritism, nepotism, corrupt activities and non-adherence of the established procedures for selection; no written examinations are conducted; appointments are made purely on interview basis; merit assessments are either not recorded or improperly recorded; the files are not scrutinized by the District Collector concerned and award of marks are not checked. Thus, these appointments are undoubtedly corrupt appointments made in order to paralyze the efficiency level in the public administration.

14. This Court is able to visualize the situation, if a public servant is appointed based on favouritism, nepotism and corrupt activities, how the people of this great Nation can expect integrity and



honesty from such a public servant; if a public servant is appointed by way of influence or with the help of politicians, how the people can expect that such a person will maintain self-respect in the Society and serve for the people of this great Nation. Thus, the selection and appointment goes to the very root of the matter. It is not as if providing few appointments at the whims and fancies of the Executives or with the influence of some politicians or other higher officials. It is the question of maintaining the institutional integrity and honesty and more specifically to make our nation magnificent through effective and efficient public administration. Ineffective public administration can never produce greater India. Ineffective administration can never provide better services to the public at large. Inefficient administration is undoubtedly a black mark for the development of our great Nation. Any developing nation would concentrate on the efficient public administration at the first instance. Non-corrupt public administration is the greater solution for the development of our great Nation. Thus, the public servants are made to feel and maintain their self-respect at the first instance and perform their duties and responsibilities with full devotion and with the national spirit as well as to do services to the people of this great Nation. Assessment is to be made in this perspective. Merit assessment is to be made in all angles. The Executives should find out, whether the selected persons for appointments to a particular post is capable of upholding the nationalism as well as the institutional integrity. If such assessments are not made, undoubtedly, the development process will be slowed down. Thus, improving the system of selection and appointment to the public posts is not only of paramount importance, but a constitutional importance. Constitutional philosophy and ethos can be achieved only if efficient public administration is blossomed.

15. Transparency is also an elementary principle to be followed for the purpose of free and fair selection to the public posts. Transparency will minimise the possibility of favouritism, nepotism and corrupt activities. Thus, the transparency coupled with the full proof system and established procedures alone can make the system of appointment in a better manner and therefore, the State should ensure that all such efforts are taken to regulate the appointments to the posts of Group-IV Services and Last Grade Services and further issue suitable orders and guidelines to all



the competent authorities, who all are empowered to appoint the candidates for Group-IV Services and Last Grade Services.

16. The District Collectors in this regard are playing a pivotal role. They are the authority competent in their respective Districts and therefore, they are duty bound to ensure that such appointments to Group-IV Services and Last Grade Services are made with some sense of constitutionality and to do justice to the unemployed poor and downtrodden citizen of this great Nation, who all are longing to secure public employment through open competitive process as well as waiting with a fond hope that they can secure public appointments on merits in this country."

4. In view of the facts and circumstances, this Court is not inclined to set aside the appointment order passed in favour of the third respondent. However, the respondents 1 & 2 are directed to follow the established procedures by conducting written examinations and restricting the interview marks to 15% in all future selections and appointments as directed by this court in an earlier order in W.P(MD)No.7188 of 2011, dated 07.06.2019.

5. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Tirunelveli.

2. The Project Officer,
Integrated Child Health
Development Scheme (ICDS),
Sankarankovil,
Tirunelveli District.

+1 CC to M/s.K.PRABHU, Advocate (SR-72314[F] dated 28/06/2019)
+1 CC to M/s.SPL GP (SR-72427[F] dated 01/07/2019)

AM

**W.P. (MD) No.3016 of 2011
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