



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.7786 of 2013

and

M.P(MD)No.1 of 2013

R.Sudha

... Petitioner

vs.

1.The Secretary to the
Government of Tamil Nadu,
Social Welfare and Nutrition Meals Department,
Secretariat,
Chennai.

2.The District Collector,
Dindigul District,
Dindigul.

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

4.The Project Officer,
Integrated Child Development Scheme,
Reddiar Chathiram,
Dindigul District.

5.Jeeva Subbaiah

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Declaration to declare the selection of the fifth respondent in the year 2012 selection for the post of Anganwadi Worker of Anumantharayan Kottai, Anganwadi Centre, Dindigul District as null and void and consequently direct the second respondent to appoint the petitioner as Anumantharayan Kottai, Anganwadi Worker.

For Petitioner : Mr.S.Karthick

For R1 to R4 : Mr.S.Dhayalan
Government Advocate

<https://hcservices.ecourts.gov.in/hcservices/> For R5 : Mr.S.Karthick

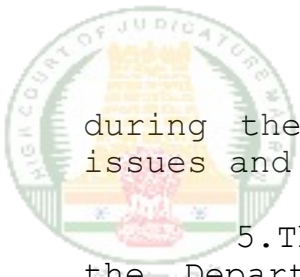
**ORDER**

The writ of declaration to declare the selection of the fifth respondent in the year 2012 for the post of Anganwadi Worker in Anumantharayan Kottai is the relief sought for in the present writ petition.

2.The learned counsel appearing on behalf of the petitioner states that the entire selection was improper and the Government guidelines in the matter of selection for the post of Anganwadi worker had not been followed by the competent authorities while undertaking the process of selection. It is contended that the writ petitioner is the resident of same village and the fifth respondent, who was appointed, was residing out side the jurisdiction of the centre. Thus, the preference to be given as per the Government Order had not been given to the writ petitioner. This apart, process of interview has been conducted at the whims and fancies of the respondent and there was no proper merit assessment as contemplated under rules.

3.The learned Government Advocate appearing on behalf of the respondents 1 to 4 produced the files. On a perusal of the files, this Court is able to understand that the award of marks were not properly done by the interview committee. No proper assessment were made by awarding marks on each heads. Contrarily, total marks are awarded considering various aspects. A doubt arise in respect of the procedures followed for awarding of such marks. Undoubtedly, every selection must be transparent and all the eligible candidates must be provided with equal opportunity in the matter of providing public employment. This being the constitutional perspective and mandates, the authorities competent of the State must ensure that all such selections are done in accordance with the procedures contemplated under law. Only in the event of following the established procedures in a transparent manner, one can arrive at a conclusion that the selection was conducted properly and in the manner known to law. In the absence of following any such procedures, this Court is of the considered opinion that such selection are not only doubtful, it is to be construed as an improper selection. Though, this Court is not convinced with the manner in which selections were made and the files produced did not reveal the clear picture about the method of selection, this Court is unable to interfere with the process of selection on account of efflux of time and further appointed candidate/5th respondent is serving in the post for about 6 years. Unsettling the appointment made in the year 2013 after a lapse of 6 years will not serve any purpose and this apart, the petitioner cannot be directly appointed even if the appointment of the fifth respondent is set aside.

4.Under these circumstances, this Court is bound to pragmatic approach unsettling the entire issue at this length of time, is not preferable. Though the process of selection was improper the learned Government Advocate made a submission that



during the relevant point of time the committee had decided the issues and awarded marks.

5. This was informed that such appointment was made through the Department of state in such manner and no procedure were followed by the competent authorities across the state, more specifically, for appointment in the class-IV cadre, when the issues involved in the matter of selection and appointment affects the interest of public at large. This Court has considered the issues in W.P.(MD)No.7188 of 2011. When the competent authority had so far selected and appointed the candidates at their whims and fancies or at the instance of the higher officials or at the influence of the local politicians, this Court is of the considered opinion that an established procedure are to be followed in the above said judgment. It is useful to extract the relevant paragraphs.

"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 recruitment 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 post 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.

6. In view of the facts and circumstances and considering the fact that the fifth respondent was appointed long back. This Court is not inclined to set aside the order of appointment issued in favour of the fifth respondent. However, the respondents, in respect of all future selection and appointments, are directed to follow the established procedure by conducting written examinations and by restricting the interview marks only to 15% of the total marks fixed for the selection as directed by this court in an earlier order



passed in W.P(MD).No.7188 of 2011, dated 07.06.2019.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To:

- 1.The Secretary,
Government of Tamil Nadu,
Social Welfare and Nutrition Meals Department,
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- 2.The District Collector,
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- 4.The Project Officer,
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+1 CC to SPL GP SR-72491.

**W.P. (MD) No.7786 of 2013
28.06.2019**

CS: (11.07.2019) 7P 6C