

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.Nos.2850, 2851, 2854, 2856 & 2858 of 2019
and
C.M.P.Nos.18341, 18345, 18350, 18353 & 18362 of 2019

(Through Video Conferencing)

Pachammal ... Appellant in
W.A.No.2850/2019

Santha ... Appellant in
W.A.No.2851/2019

Kavitha ... Appellant in
W.A.No.2854/2019

Saritha ... Appellant in
W.A.No.2856/2019

Valliammal ... Appellant in
W.A.No.2858/2019

The District Collector,
Krishnagiri District,
Collectorate,
Krishnagiri.

Vs.

सत्यमेव जयते

... Respondent in
all W.As.

Common Prayer:- Writ Appeals filed under Clause 15 of Letters Patent, to set aside the common order dated 10.04.2019 passed by the learned Single Judge in W.P.Nos.21397, 21398, 21400, 21401 and 21402 of 2018.

Prayer in W.P.Nos.21397, 21398, 21400, 21401 and 21402/2018:

Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na. Ka. No. 27907/2015/X1 dated 5.4.2018 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 Appellant in all W.As.: Mr.R.Neelakandam
for Mr.C.Mahendiran

For Respondent in all W.As.: Mrs.Srijayanthi
Special Government Pleader

C O M M O N J U D G M E N T
(Judgment of the Court was delivered
by C.SARAVANAN, J.)

By this common Judgment, all the five Writ Appeals are being disposed.

2. The appellants have filed these appeals against the impugned common order dated 10.04.2019 passed by the learned Single Judge in W.P.Nos.21397 to 21402 of 2018. These writ petitions were filed by the appellants for a writ of certiorarified mandamus to call for the records pertaining to the order in Na.Ka.No.27907/2015/X1 dated 05.04.2018 on the file of the respondent and to quash it with a consequential direction to appoint the appellants as the Noon-Meal Organizers on priority basis without reference to the conditions of upper age limit and distance of residence within a reasonable time.

3. The learned Single Judge has dismissed the writ petitions filed by the appellants holding that it is prerogative of the competent Authorities to prescribe the conditions of service and other qualifications, age limit and etc., for recruitment to a particular post or cadre and Judicial review against such decisions taken by the Authorities can be interfered only under limited circumstances. The learned Single Judge further held that only if the qualifications prescribed by the competent Authorities are unconstitutional or were in violation of the statutory provisions alone, the High Courts can exercise the power of Judicial and not otherwise.

4. While dismissing the writ petitions, the learned Single Judge has given liberty to the appellants to participate in the process of selection for appointment to the post of Noon-Meal Organizers if the appellants are otherwise qualified and eligible in accordance with the Rules and conditions stipulated in the notification that may be issued.

5. The case of the appellants before the learned Single Judge in the writ petitions was that they were appointed as the Co-ordinator in Adult Literacy Programme in 2003 and that they

had rendered service for several years without any break. However, they were ousted from service as there was no vacancy to the post.

6. Under these circumstances, a Block Development Officer had sent representations to the District Collector to consider the appointment of appellants to the post of Noon-Meal Organizers. The District Collector however rejected the same on the ground that appointment can be made only in terms of the G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP-2) dated 18.08.2010.

7. It appears that in this connection, the appellants had earlier filed a batch of writ petitions before this Court which came to be dismissed and therefore, the appellants had preferred writ appeals before the Division Bench of this Court in W.A.Nos.1407 to 1411 of 2016. The writ appeals also came to be disposed by an order dated 25.07.2017, wherein, the Division Bench of this Court observed that if the appellants are otherwise eligible, they may be accommodated by the respondent.

8. It was the case of the appellants that since the aforesaid order of the Division Bench of this Court was not been by the respondent, the appellants filed the Contempt Petition Nos.899 to 903 of 2018.

9. During the pendency of the aforesaid contempt proceedings, the respondent District Collector by his proceedings in Na.Ka.No.270907/2015/X1 dated 05.04.2018, informed the appellants that if they applied to the post of Noon-Meal Organizers, they would be considered only in accordance with G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP-2) dated 18.08.2010.

10. Under these circumstances, the communication/proceedings of the respondent District Collector in Na.Ka.No.270907/2015/X1 was challenged by the appellants in W.P.Nos.21397 to 21402 of 2018. In these writ petitions, the appellants took a plea that the respondent District Collector ought not to have rejected the request of the appellants for appointment to the post of Noon-Meal Organizers through the Block Development Officer. The said Block Development Officer had given favourable recommendations as was observed in the previous proceedings that were pending before this Court.

11. It is further submitted that the respondent District Collector ought not to have deferred the request of the appellants by referring to G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP-2) dated 18.08.2010 as these appellants were in service even before issue of the said G.O.Ms. and they could not be applied to their disadvantage.

12. It is further submitted that similarly placed persons who worked as Noon-Meal Organizers were also ousted from service for want of vacancy. They had approached this Court in W.P.Nos.10435 of 2011 and 27644 of 2013 and were accommodated.

13. The learned Special Government Pleader appearing for the respondent submitted that the appellants cannot be made contrary to the relevant G.O.Ms. and statutory regulations as in force regarding the appointment to the post of Noon-Meal Organizers. The learned Special Government Pleader also filed a copy of the communication dated 26.08.2020 issued by the respondent District Collector pursuant to the impugned common order dated 10.04.2019 in W.P.Nos.21397 to 21402 of 2018 of learned Single Judge. In this communication, it has been stated that the post of Noon-Meal Organizer can be granted only in terms of the G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP-2) dated 18.08.2010 and preference can be given to the appellants merely because they were in service as co-ordinators under the "Growing Education Scheme" (Valar Kalvi Thittam).

14. It is also submitted by the learned Special Government Pleader that the appellants were engaged in service as co-ordinators under the "Growing Education Scheme" only for a limited period on temporary basis. Therefore, the appellants cannot claim any preferential treatment in the recruitment process for the post of Noon-Meal Organizers.

15. We have considered the arguments advanced by the learned counsel for the respective appellants and the learned Special Government Pleader for the respondent.

16. We are of the view, the appellants cannot seek preferential right in the regular recruitment process merely because they have worked on an earlier occasion on temporary basis as co-ordinators under the "Growing Education Scheme" (Valar Kalvi Thittam). At the same time, the appellants appear to have put in service for a period over 7 years. Therefore, the period served by the appellants under the aforesaid scheme can be considered favourably in their favour by relaxing the age limit prescribed under G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP-2) dated 18.08.2010. The State Government of Tamil Nadu may therefore examine the same and issue suitable amendment to the said G.O. as the appellants can hardly be blamed for the delay in initiation of the recruitments process.

17. The respondent may therefore consider the appellants for appointment as Noon-Meal Organizers as and when such a G.O. is issued amending the parent G.O. considering the fact that the appellants have worked as co-ordinators on temporary basis since 2003 up to 2010.

18. These Writ Appeals are therefore dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The District Collector,
Krishnagiri District,
Collectorate,
Krishnagiri.

Copy to

The Secretary to Government
Department of Social Welfare and Nutritious Meal Programme
Fort. St. George
Chennai 9.

+1 CC to The Govt. Pleader sr 28160.

W.A.Nos.2850, 2851, 2854,
2856 & 2858 of 2019 and
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SSV(CO)
SP(28/10/2020)

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