



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.9405 of 2012

and

M.P (MD) .Nos.2 and 3 of 2012

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M.Gomathi

... Petitioner

vs.

1.The District Collector
Thoothukudi District
Thoothukudi

2.The District Program Officer
Social Welfare and Nutritious
Meal Program
Thoothukudi District

3.The District Child Development Project Officer
Thoothukudi District
Thoothukudi

4.Selva Rani

5.The Commissioner
Udangudi Panchayat Union
Udangudi, Thoothukudi District

... Respondents

(R5 is impleaded vide Court order dated
07.03.2018 in WMP(MD).No.1727 of 2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records relating to the selection of the fourth respondent in serial number 3 of the selection list issued by the first respondent and quash the same and consequently direct the respondents 1 to 3 to select the petitioner for the post of Anganwadi worker in Panchayat Union Elementary School, North Kallankudiyiruppu, Udankudi, Thoothukudi District.

For Petitioner
For R1 to R3

: Mr.A.Robinson
: Mr.S.Dhayalan
Government Advocate
: Mr.R.Ganeshprabhu
: Mr.S.Kumar

For R4

For R5

<https://hcservices.ecourts.gov.in/hcservices>



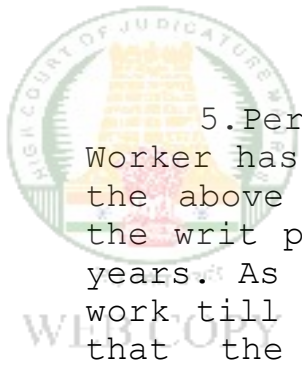
O R D E R

The above Writ petition has been filed to call for the records relating to the selection of the fourth respondent in serial number 3 of the selection list issued by the first respondent and quash the same and consequently direct the respondents 1 to 3 to select the petitioner for the post of Anganwadi worker in Panchayat Union Elementary School, North Kallankudiyiruppu, Udankudi, Thoothukudi District.

2.The case of the petitioner is that the District Collector of Thoothukudi invited applications for 35 posts of Anganwadi workers in Thoothukudi District, as per G.O.Ms.No.163, dated 18.08.2010 issued by the Social Welfare Department. On 24.05.2012, the petitioner applied for the post of Anganwadi Worker in Panchayat Union School, North Kallankudiyiruppu Udankudi. The learned counsel for the petitioner would submit that the Commissioner Panchayat Union, Udankudi on 22.06.2012 sent a letter to the petitioner to attend the interview before the office of the District Collectorate on 03.07.2012. Accordingly, the petitioner attended the interview. The learned counsel would further submit that the petitioner is a destitute woman and belongs to schedule caste community. The petitioner's husband deserted the petitioner and her daughter before 12 years ago. As on date of notification for the post of Anganwadi worker, the petitioner age is 40 years. Totally 11 persons applied for the post of Anganwadi worker in Panchayat Union Elementary School, North Kallankudiyiruppu including the petitioner and all attended the interview for that post. On 05.07.2012, the District Collector published the list of selected candidates for the post of Anganwadi worker wherein the petitioner's name was not included in the list. Aggrieved by the said selection, the petitioner is before this Court.

3.The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that though the petitioner has claimed that she is a destitute women, she failed to produce the destitute widow certificate at the time of certificate verification. Hence, she cannot claim priority over the fourth respondent. Since the fourth respondent has satisfied the selection committee than the other candidates, the petitioner cannot found fault with the mode of selection as well as the selection of the fourth respondent. Hence, he prayed for dismissal of this Writ petition.

4.Heard the learned counsel appearing for the petitioner; learned Government Advocate appearing for the respondents 1 to 3; learned counsel appearing for the fourth respondent as well as the fifth respondent.



5.Perusal of record shows that the appointment of Anganwadi Worker has been made in the year 2012 and the petitioner has filed the above writ petition immediately in the year 2012 itself and the writ petition is pending before this Court for the past eight years. As per appointment, the fourth respondent is continuing to work till date. The contention of the learned Government Advocate that the petitioner has not produced the destitute widow certificate at the time certificate verification, but he has not proved the same. Perusal of record shows that the petitioner has obtained the destitute widow certificate as early as in the year 2005 itself and there is a reason for her not to produce the same.

6.The issue involved in this case is squarely covered by the decision of this Court reported in **(2011) 3 MLJ 85 in W.P(MD). No.9685 of 2008 (V.Lakshmi Vs. The Special Commissioner and Secretary to Government, Social Welfare & N.N.P.(S.W.7) Department, Chennai and others)** where, at paragraph nos.15 & 16 are relevant, it is held as follows:

"15.Generally, in the matter of appointments, the view taken by the Expert Committee or Selection Committee cannot be interfered with, because of the simple fact that the persons who are in the Selection Committee or Expert Committee are supposed to be the right persons for selecting the eligible candidate for a particular post.

16.As far as the present case is concerned, the petitioner is a destitute widow aged about 23 years. However, her qualification is SSLC (X standard). But, the selected person namely the fifth respondent is aged 29 years at the time of her selection and her qualification is B.A. Degree (History). Though an endeavour has been made on the part of R.R.1 to 4 that the fifth respondent is senior in age by seven years to that of the petitioner and further, she has completed B.A(History), yet this Court is of the considered view that in that instant case on hand, the preference to be given to the destitute widow namely the petitioner as per the letter No.355/S.W7(1)/2008-2 dated 20.03.2008 of the first respondent/Special Commissioner and Secretary to Government, Social Welfare & NMP (S.W.7) Department, Secretariat, Chennai -09 has not been obviously kept in mind or taken into consideration by the Selection Committee or by the second respondent/District Collector, Ramanathapuram while issuing the impugned order dated 11.10.2008 in appointing the fifth respondent, overriding the case of the petitioner".

7.Accordingly, the respondents are directed to treat this case as special case and to appoint the petitioner in any of the



existing vacancy within a period of twelve weeks from the date of receipt of a copy of this order. Since the matter is pending before this Court for the past eight years, the respondents are directed to give age relaxation to the petitioner at the time of appointment.

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8. With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

msa

To

1. The District Collector
Thoothukudi District
Thoothukudi

2. The District Program Officer
Social Welfare and Nutritious
Meal Program
Thoothukudi District

3. The District Child Development Project Officer
Thoothukudi District
Thoothukudi

+1 CC to SPL.GP (SR-3735[F] dated 29/01/2020)

+1 CC to MR.G.SATHIYANARAYANAN, Advocate (SR-3422[F] dated 28/01/2020)

+2 CC to MR.R.GANESHPRABHU, Advocate (SR-3472,4037[F] dated 28/01/2020)

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