

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8310 of 2013

G.Valarmathi ... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep.by its Secretary,
Social Welfare and Nutritious Meal Programme Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
The Office of the District Collector,
Krishnagiri District.
3. The Children Development Project Officer,
Children Development Project Office,
Thali, Krishnagiri District - 635 118.
4. Mrs.Sasikala ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order No.618/A1/2012 dated 12.09.2012 issued by the second respondent, quash the same and direct the respondents to appoint the petitioner as Anganwadi worker at Anganwadi Noon Meal Centre - II, Vannathipatty Village at Krishnagiri District with consequential benefits.

For Petitioner : Mr.S.Meenakshi
For R1 to R3 :Mr.A.N.Thambidurai, Spl.GP

ORDER

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in Na.Ka.No.618/A1/2012 dated 12.09.2012 issued by the second respondent and quash the same and direct the respondents to appoint the petitioner as Anganwadi worker at Anganwadi Noon Meal Centre - II, Vannathipatty Village at Krishnagiri District with consequential benefits.

2.According to the petitioner, she is fully qualified for appointment to the post of Anganwadi worker. She applied for the

said post in Vannathipatty Anganwadi Centre -II on 05.06.2012. The third respondent issued call letter for the interview on 01.08.2012. The petitioner attended the interview on 22.08.2012 with the required certificates. However, she was not selected, but the fourth respondent was selected and was given appointment by order dated 12.09.2012. Feeling aggrieved, the petitioner has filed this writ petition for the aforesaid relief.

3.Upon notice, the respondent authorities filed a detailed counter affidavit, inter alia stating that as per G.O.Ms.No.142 Social Welfare and Nutritious Meal Programme Department, dated 06.07.2010, a notification was issued and interview was conducted on 22.08.2012, in which, 32 candidates attended and their certificates were verified, based on which, the fourth respondent was appointed as Anganwadi worker. Thus, according to the respondent authorities, there is no illegality in following the rules, norms and guidelines prescribed, while appointing the fourth respondent as Anganwadi worker, which warrants no interference at the hands of this Court.

4.The learned counsel for the petitioner contended that the fourth respondent after marriage, was residing in Singarapettai of Uthankarai Taluk, which is 60km away from Vannathipatty village, but she gave false address as if she was residing in Natrampalayam Village of Thali Taluk. Even assuming that she was residing in Natrampalayam village, the said village is located nearly 30km away from the Vannathipatty village. As per the Government Order, the candidates belonging to the same hamlet should be given preference in appointment to the post of Anganwadi worker. That apart, the petitioner is an unmarried women taking care of a widowed mother and hence, she should be given preference. Thus, according to the learned counsel, the appointment given to the fourth respondent is arbitrary and illegal.

5.Vehemently opposing the contention so raised on the side of the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 drew the attention of this Court to the averments made in the counter affidavit and submitted that the petitioner is residing at Poonjolai village, which is 3 km away from the Vannathipatty Village, whereas the fourth respondent is residing at Natrampalayam road, Anchetty, which is 2.5km only and hence, the Selection Committee recommended the fourth respondent to appoint her as Anganwadi Worker. Even otherwise, the place of residence alone cannot be a criteria for appointment to the post of Anganwadi worker; and other aspects such as age, educational qualification, etc., can also be taken into consideration. The fourth respondent being the eligible candidate in all respects than the petitioner, she was given appointment and hence, the same cannot be questioned

by the petitioner.

6. Heard the rival submissions and perused the materials placed before this Court.

7. In this writ petition, the petitioner has challenged the appointment given to the fourth respondent as Anganwadi worker. According to her, she is a better candidate than the fourth respondent, more particularly, place of residence, however, she was not considered for the said post, whereas it is the stand of the respondent authorities that considering all the aspects, the Selection Committee selected the fourth respondent as fit for appointment to the said post and there is no provision that the residence of a candidate selected for the said post may be within a radius of the Noon Meal Centre.

8. From the pleadings adduced by the parties, it could be seen that G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW-7) Department dated 14.05.2012 prescribes the method of recruitment for Anganwadi worker, as per which, if no suitable candidate residing within 3km from the centre is available, a candidate residing within 10km shall also be considered, if she is otherwise found eligible. It is also seen that not only the place of residence, but also other aspects, such as, age, educational qualification, etc. shall also be taken into consideration, while selecting the candidates for the said post. Thus, it is clear that the proximity of residence/locality is only a preference and not a qualification by itself. Once it is established that none of the selected candidates are otherwise disqualified, they cannot be edged out of consideration only on the ground that they were not being the residents of the locality.

9. As already stated above, the respondents in their counter affidavit categorically stated that the Selection Committee taking note of the age, educational qualification, etc., including the resident hamlet, selected the fourth respondent to be appointed to the post of Anganwadi worker.

10. Earlier, in an identical case in Rajeswari v. State of Tamil Nadu, [order dated 12.03.2019 rendered in WP(MD)No.18106 of 2018], this Court discussed the issue at hand in detail and ultimately decided the same against the petitioner therein, by observing that "the distance alone is not the eligible criteria to appoint a person to the post of Anganwadi worker".

11. Further, the Noon Meal Scheme implemented by the State of Tamil Nadu is not governed by any Statue or any other enactment; rather, it is implemented on the basis of a policy

decision taken by the Government by issuing Government Orders and executive instructions from time to time. No statutory rules have been framed under the proviso to Article 309 of the Constitution of India nor is there any Act of the Legislature governing the service conditions of the workers employed under the aforesaid Scheme. Hence, in the absence of any statutory rule, it is open for the Government to regulate the service conditions and the criteria for such appointments by issuing administrative instructions dealing with the question of experience or other criteria for such appointments and the same cannot be easily interfered with by this Court.

12. Viewing from any angle, this Court finds no infirmity or illegality in the order impugned herein. Hence, the writ petition deserves to be dismissed and is accordingly, dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/
Sub Asst. Registrar

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To

1. The Government of Tamil Nadu,
Rep.by its Secretary,
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+1 cc to M/s.Government Pleader sr165

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