



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)Nos.7087 and 10933 of 2016

and

W.M.P(MD)Nos.6019, 16288 of 2016 and 17499 of 2017

L.Priya ..Petitioner in W.P(MD)No.7087 of 2016
B.Akilandeswari ..Petitioner in W.P(MD)No.10933 of 2016

Vs.

1.The District Collector,
Trichy District, Trichy.

2.The Block Development Officer,
(Village Panchayat),
Thathaiyengarpettai Village,
Panchayat Union, Thathaiyengarpettai,
Musiri Taluk, Trichy District.

3.The Commissioner,
Thathaiyengarpettai Village Panchayat Union,
Thathaiyengarpettai, Musiri Taluk,
Trichy District.

4.The Headmaster,
Panchayat Union Primary School,
Serugudi, Musiri Taluk
Trichy District. ...Respondents 1 to 4 in both petitions

5.L.Priya ..5th Respondent in W.P.(MD)No.10933 of 2016

Prayer in W.P. (MD)No.7087 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent's impugned order in RC.No.6/231/15 dated 26.02.2016 communicated by the third respondent through communication in Na.Ka.No.6/214/2016 dated 04.04.2016 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner in the fourth respondent school with continuity of service.

Prayer in W.P. (MD)No.10933 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to appoint the petitioner for the post of Noon Meal Organiser in fourth respondent School, by considering petitioner's representation dated 26.03.2016 within the period stipulated by this Court.



For Petitioner: Mr.M.Kannan
For R1 & R4 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
For R2 : Mr.S.Satheesh Kumar
For R3 : No Appearance
(in W.P.(MD)No.7087/2016)
For Petitioner: Mr.A.Haja Mohideen
For R1 & R4 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
(in W.P.(MD)No. 10933/2016)

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COMMON ORDER

W.P(MD)No.7087 of 2016

This Writ Petition is filed by the petitioner challenging the impugned order of the first respondent, dated 26.02.2016 in RC.No.6/231/15, communicated by the third respondent, through communication in Na.Ka.No.6/214/2016, dated 04.04.2016 and quash the same as illegal and consequently, direct the respondents to reinstate the petitioner in the fourth respondent school with continuity of service.

2.The case of the petitioner is that she belongs to Most Backward Community and she has completed Diploma in Teacher Education. While so, the first respondent issued Notification for recruitment for the post of 'Noon Meal Organizers', in the School functioning under the Puratchithalaivar M.G.R Sathunavu Thittam, in Trichy District. Therefore, the petitioner has submitted her application to the said post in the fourth respondent School. Thereafter, the third respondent issued a call letter, dated 03.02.2016, to the petitioner stating to attend interview on 10.02.2016 at about 10.00 a.m and she has also attended the interview. The first respondent selected the petitioner and issued appointment order on 19.02.2016 as Noon Meal Organizer in the fourth respondent School. Pursuant to which, she joined the duty and received salary for the month of March 2016. Thereafter, the first respondent issued an order dated 26.02.2016 stating that when the petitioner joined in service in the fourth respondent school, she has not produced the certificate to show that she is entitled to priority. Challenging the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that though the particular post was allotted to General Priority Category, the petitioner made an application in the said quota and the said application was entertained by the first respondent and also attended the interview and thereafter, she was selected to the particular post. Later, the petitioner's appointment was cancelled on the ground that the petitioner has not produced priority certificate, which is unsustainable one. Hence, he prays for allowing the writ petition.



4.The learned Additional Government Pleader appearing for the first and fourth respondents in W.P(MD)No.7087 of 2016 submitted that the recruitment process were initiated vide proceedings, dated 27.01.2016. The petitioner has made an application to that vacant post and call letter was also issued to her on 02.02.2016, wherein, it has been specifically mentioned that the certificate for priority shall be produced, while attending the interview. As per the roster system, the vacancy of the fourth respondent school falls as 'General Priority Category'. It was further submitted that the petitioner attended the interview and she was selected on 'adhoc basis' and her selection was truly temporary basis, because she did not produce the Priority Certificate. Therefore, the first respondent issued the appointment order, on 19.02.2016 stating that her selection was truly on temporary basis and it would be cancelled, if the petitioner fails to produce the necessary certificate. After joining the duty, the petitioner did not produce the Priority Certificate, as stated in the appointment order. Hence, the order of dismissal was passed. In the call letter, it has been clearly mentioned that the appointment is only on temporary basis and the confirmation will be given only after the production of the Priority Certificate. Hence, he prays for dismissal of the writ petition.

W.P.(MD) .No.10933 of 2016

5.This Writ Petition is filed by the petitioner for a direction to the first respondent to appoint the petitioner for the post of 'Noon Meal Organizer' in the fourth respondent school, by considering the petitioner's representation, dated 26.03.2016.

6.The case of the petitioner is that she is a visually disabled person and she belongs to Backward Community of Vellala Gounder. Whiles, in the Newspaper, dated 22.02.2016, for recruitment to the post of Noon Meal Organizers and Cooking Assistant Post, had called for. Therefore, the petitioner has made an application to the said post under the Dr.M.G.R. Noon Meal Scheme, in the fourth respondent school under the priority category. The petitioner has received a call letter to attend the interview. Thereafter, the petitioner has not received any information from the respondents. The petitioner came to know that the first respondent issued an appointment order to the fifth respondent, viz., Priya, who is the petitioner in W.P (MD)No.7087 of 2016. Since the petitioner is the only eligible person for the said post under the said category, the appointment of the fifth respondent is unsustainable in law. Therefore, the petitioner has made a representation dated 26.03.2016 to the respondents to cancel the appointment of the fifth respondent. Since no order has been passed, the present writ petition is filed.

7.The learned counsel appearing for the petitioner submitted that as per roster system, the vacancy in the fourth respondent school falls as General Priority Category and the petitioner is a



priority category. Without considering the same, the first respondent has selected the fifth respondent, who has not produced any document for priority quota, which is illegal and unsustainable one.

8.The learned counsel appearing for the third respondent submitted that to fill up the vacancy in the post of Noon Meal Organizers and Assistants in Trichy District, as per the orders of the Government in D.O.Roc.35237/NMS-1/2012, dated 18.02.2015, invited the applications from the public by causing paper publication in two daily newspapers viz., Dinamalar and Dinakaran, dated 24.01.2016.

9.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first and fourth respondents and perused the materials available on record.

10.The facts in the present case are not in dispute. Admittedly, the petitioner L.Priya, participated in the selection process for the post of Noon Meal Organizer and she was received the appointment order on 19.02.2016 and a perusal of the appointment order reveals that her selection was truly on temporary basis and it would be cancelled, if the petitioner fails to produce the priority certificate. Further, the petitioner has to produce all the necessary certificates before the competent authority for confirming her appointment. When such being the position, the vacancy of the fourth respondent school falls as General Priority Category. It is also admitted that the petitioner attended the interview and she was selected on 'ad hoc basis' and her selection was truly on temporary basis, because she did not produce the Priority Certificate. Therefore, the first respondent issued the appointment order, on 19.02.2016 stating that her selection was truly on temporary basis and it would be cancelled, if the petitioner fails to produce the necessary certificate. Since the petitioner has not produced the priority certificate as directed, as per the conditions stipulated in the appointment order, the order impugned cannot be interfered with. Further, the appointment order, makes it clear that the petitioner's selection was truly on temporary basis and it can be cancelled without any notice, in the event of the petitioner not producing the certificate, as stated in the appointment order. In view of the above, I do not find any merit in the writ petition and accordingly, this Writ Petition is dismissed.

11.However, the petitioner in W.P(MD).No.10933 of 2016 is concerned, this Court is of the considered view that she is not entitled for appointment and it is for the appointing authority to select the eligible candidate for appointment, as per the conditions stipulated and this Court cannot issue any direction to appoint one person or the other.



12. In view of the above, I am inclined to issue a direction to the first respondent to issue a fresh notification calling for application from the eligible candidates. It is needless to say that the petitioners are entitled to participate in the process, in future, if they are otherwise eligible.

13. In the result, both the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (ADII)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Trichy District, Trichy.

2. The Block Development Officer (Village Panchayat),
Thathaiyengarpettai Village,
Panchayat Union, Thathaiyengarpettai,
Musiri Taluk, Trichy District.

3. The Commissioner,
Thathaiyengarpettai Village Panchayat Union,
Thathaiyengarpettai, Musiri Taluk,
Trichy District.

4. The Headmaster,
Panchayat Union Primary School,
Serugudi, Musiri Taluk
Trichy District.

+1 CC to M/s.M.KANNAN, Advocate (SR-11405[F] dated 16/03/2021)

+1 CC to M/s.SPL GP (SR-12002[F] dated 17/03/2021)

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TR(07.07.2021) 5P 7C