



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 8468 of 2022
& W.M.P.No.8396 of 2022

S. Sathyaseelan

...Petitioner

Vs.

1. The District Collector
Perambalur District,
Perambalur -621101

2. Special Thasildar,
Adi Dravidar Welfare,
Perambalur - 621101

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the issue of impugned order namely Na.Ka.Ai.1/5805/2018 dated 28.03.2022 by the 1st respondent and quash the same and consequently to direct the respondents to allow the petitioner to continue in service without any discontinuation pursuant to the impugned order with all attendant benefits viz. pay service benefits etc. and with a direction to the 1st respondent to pay appropriate compensation including the expenses for the filing of this writ petition

For Petitioner : Mr.N.Subramaniyan

For Respondents: Mr.T.Arunkumar, AGP

ORDER

The prayer sought for in the writ petition is to calling for the records relating to the issue of impugned order namely Na.Ka.Ai.1/5805/2018 dated 28.03.2022 by the 1st respondent and quash the same and consequently to direct the respondents to allow the petitioner to continue in service without any discontinuation pursuant to the impugned order with all attendant benefits viz. pay service benefits etc. and with a direction to the 1st respondent to pay appropriate compensation



including the expenses for the filing of this writ petition.

2.The learned counsel for the petitioner has submitted that the petitioner was appointed as a Cook in Government Adi dravidar Students Welfare Hostel, Melapuliyur, Perambalur District by direct recruitment and joined the services on 20.10.2020 and he is working for the past two years. Subsequently, the 1st respondent passed the impugned order terminating the services of the petitioner for the reason that the petitioner was over aged at the time of his appointment, which is more than 35 years prescribed under the notification for SC/ST as per Rules.

3.The learned counsel for the petitioner has further submitted that the as per Proviso to sec 20 (8)(ii), a SC/ST candidate is entitled to get maximum age limit increased by five years and hence, the petitioner is entitled to be considered for appointments till attaining 40 years of age on the date of notification i.e 02.10.2019, but the 1st respondent without considering the said statutory provision, has terminated the petitioner from service without any notice. Hence, the impugned order is liable to be quashed.

4.On the other hand, the learned Additional Government Pleader has submitted that the petitioner was aged about 36 years 3 months and 3 days, as on the date of notification i.e on 02.10.2019, which is more than 35 years prescribed under the notification for SC/ST. Therefore, the petitioner is not eligible for appointment under the said notification and the impugned order passed by the 1st respondent, terminating the services of the petitioner is valid and does not require any interference by this Court.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the documents available on record.

6.The primordial contention of the learned counsel for the petitioner is that the petitioner was appointed as Cook under the 2nd respondent department and served for more than two years without any remarks. The 1st respondent had passed the impugned order without giving any show cause notice to the petitioner to defend his case, which is clear violation of the principles of natural justice.

7.On careful perusal of the impugned order passed by the 1st respondent clearly proves that the 1st respondent without giving any show cause notice to the petitioner to defend his age, had passed the impugned order, terminating the services of the petitioner.Though the learned Additional Government Pleader



strongly contended that as per the records, the petitioner was over aged at the time of appointment, it is a well settled law that before passing final orders, an opportunity should be provided to the delinquent to defend his case. Therefore, it is clear violation of principle of audi alteram partem, a basic principle of natural justice. On this ground, the impugned order passed by the 1st respondent is liable to be quashed.

8. Accordingly, the impugned order is quashed. The 1st respondent is directed to issue show cause notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order and conclude the entire proceedings and pass final orders as expeditiously as possible, preferably within a period of eight (8) weeks thereafter.

9. In the result, the writ petition is allowed to the above extent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Perambalur District,
Perambalur -621101

2. The Special Thasildar,
Adi Dravidar Welfare,
Perambalur - 621101

+2cc to Mr.N.Subramaniyan, Advocate, S.R.No.38624, 38157
+1cc to the Government Pleader, S.R.No.39323

W.P.No. 8468 of 2022
and
WMP.No.8396 of 2022

EV (CO)
RGA (29/06/2022)