



WEB COPY



W.P. No.23381 of 2022 and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.23381, 23384, 23387, 23397, 23402,
27587, 27589, 27590, 28218, 28951,
28957, 28958 and 28960 of 2022

and

W.M.P. Nos.22334, 22336, 22340, 22356, 22359,
26844, 26845, 26847, 26848, 26849,
26853, 27516, 27518, 28237, 28244,
28245 and 28247 of 2022

In W.P. No.23381 of 2022

D. Kamesh Kanth

... Petitioner

VS.

1. The Commissioner of Adi-Dravidar Welfare
Chepauk,
Chennai – 5.

2. The District Adi-Dravidar & Tribal Welfare Officer,
Tiruvallur District,
Tiruvallur.

3. The Special Thasildar (ADW)
Tiruttani,
Tiruvallur District.

... Respondents

Prayer : 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 orders of the 2nd respondent in Na.Ka.No.J6/16804/2019, dated 25.08.2022 and the consequential orders



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of the 3rd respondent in Na.Ka.No.203/2022/A3, dated 27.08.2022 and quash the same and direct the respondents to continue the service of the petitioner in the post of 'Cook' with all monetary benefits.

For petitioner in W.P. Nos.23381,
23384, 23397, 28218 of 2022 : Mr.S. Kamadevan

For petitioner in W.P.
No.23387 of 2022 : Mr.S. Pushpakaran

For petitioner in W.P.
No.23402 of 2022 : Mr.P.Munusami

For petitioner in W.P. Nos.27587,
27589 and 27590 of 2022 : Mr.S. Vijayakumar

For petitioner in W.P. Nos.28951,
28957, 28958 and
28900 of 2022 : Mr.G.Sankaran

For respondents in all W.P.s : Mr.Haja Naziruddeen,
Addl. Advocate General – I,
Assisted by
Mrs.C. Sangamithirai,
Spl. Govt. Pleader
and
Mr.P.Haribabu,
Government Advocate.

COMMON ORDER

These writ petitions have been filed challenging the termination orders issued to the respective petitioners under which their services have been terminated. The respective petitioners are Cooks working in the



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Adi-Dravidar Welfare Department. Under the impugned termination orders, their appointments have been cancelled either on account of the following :-

- a) overqualified i.e., the petitioners have passed 10th std,
- b) the petitioners are over aged and
- c) the petitioners are residing outside the District.

2. Heard the submissions of the learned counsels on either side.

3. The respective learned counsels appearing for the respective petitioners would submit that as per the Rule notified in G.O. Ms.No.2342 Social Welfare Department, dated 4.09.1986 and amended in G.O. Ms. No.53, Adi Dravidar and Tribal Welfare Department, dated 14.08.2013, the primary qualification required for the respective petitioners to be appointed as Cooks is that they should be able to read and write in Tamil. They would submit that the Rule does not disqualify a person from being appointed as a Cook, if he has completed 10th standard.

4. It is also contended by the respective petitioners with regard to the age limit criteria, that the rules and the Government Orders prescribe relaxations.

5. With regard to the residency, the Government Orders also make



it clear that the respondents will have to give State-wide advertisement for being appointed in public service.

6. According to the respective learned counsels, none of the aforementioned factors based on which the petitioners were appointed as Cooks have been considered under the impugned orders. According to them, the impugned orders have been passed arbitrarily by not affording any hearing to the respective petitioners. Therefore according to them, the respondents have violated the principles of natural justice.

7. The learned Additional Advocate General appearing for the respondents would reiterate the contents of the counter affidavit filed by them before this Court. He would submit that the respective petitioners have suppressed material facts while seeking for appointment as Cooks in the Adi-Dravidar Welfare Department. Some of the petitioners are either over qualified or over aged or residing outside the District. According to the learned Additional Advocate General, only in accordance with the Government Order and Rules, the termination orders have been issued cancelling their respective appointments of the petitioners.

8. Admittedly, no opportunity of hearing has been granted to the respective petitioners. All the petitioners were earlier called for



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certificate verification and they have also submitted their certificates for verification, which is reflected in the impugned orders.

9. The learned Additional Advocate General would submit that opportunity of hearing was granted to the respective petitioners. However, the same is disputed by the petitioners, who would contend that the petitioners were only called for certificate verification and no opportunity of hearing was granted to them with regard to the show cause notice issued by the respondents with regard to their termination.

10. Under the respective impugned termination orders, the contentions of the petitioners that have been raised in these writ petitions have admittedly not been considered. The petitioners also contend that they are in service for almost two years and they categorically contend that they have been arbitrarily and illegally terminated. They also rely upon the Government Rules and Government orders to substantiate their claim that they have been appointed as Cooks only in accordance with the said Rules / Government Orders.

11. Since no reasons have been given under the impugned orders by which the services of the petitioners have been terminated and no opportunity of hearing has been granted to them and their contentions have not been considered, necessarily, the impugned orders have to be

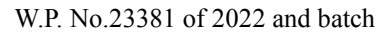


quashed and the matter has to be remanded back to the respondents for fresh consideration.

12. The respondents will have to issue a fresh show cause notice to the respective petitioners informing the violations committed by them before seeking appointment as Cooks in the Adi Dravidar Welfare Department, within a time frame to be fixed by this Court and on receipt of the said show cause notice, the respective petitioners will have to submit a reply stating their objections, within a time frame to be fixed by this Court. Only thereafter, the respondents shall pass final orders on merits and in accordance with law after affording one personal hearing to each of the petitioners. Only on the ground of violation of principles of natural justice and on the ground that the contentions of the petitioners that have been raised in these writ petitions have not been considered, this Court is **quashing the impugned orders** and the matter is remanded back to the respondents for fresh consideration.

13. In the result, without going into the merits of the matter, this Court passes the following directions :

a) The respondents are directed to issue a fresh show cause notice to the respective petitioners with regard to their termination, within a period of two weeks from the date of receipt of a copy of this order,



c) On receipt of the reply from the respective petitioners, the respondents shall afford one personal hearing to the respective petitioners and shall pass final orders on merits and in accordance with law, after giving due consideration to the objections raised by the respective petitioners in their reply, within a period of two weeks thereafter.

d) The services of the respective petitioners who were employed as Cooks on the date of the passing of the impugned orders shall not be disturbed by the respondents till final orders are passed by the respondents.

14. With the aforesaid directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.11.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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ABDUL QUDDHOSE, J.

vsi2

1. The Commissioner of Adi-Dravidar Welfare
Chepauk,
Chennai – 5.
2. The District Adi-Dravidar & Tribal Welfare Officer,
Tiruvallur District,
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