



W.P.No.13043 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13043 of 2017
and W.M.P.No.13915 of 2017

B.Geetha

...Petitioner

Vs.

- 1.The Secretary,
Social Welfare & Nutritious Meal Scheme Department,
Government of Tamil Nadu,
Secretariat, Chennai.
- 2.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Personal Assistant (Nutritious) of District Collector,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Block Development Officer,
Sethupattu Panchayat Union,
Sethupattu, Polur Taluk,
Tiruvannamalai District.

5.Tmt.Yuvarani

...Respondents

[R5 impleaded vide Order dated 15.09.2022 mad in WMP.No.22834 of 2022 in W.P.No.13043 of 2017)



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Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue

a writ of Certiorarified Mandamus, calling for the records in connection with petitioners appointment order proceedings No.Na.Ka.No.8512/2016/NMP-1, dated 20.04.2017 and cancellation of appointment order proceedings No.Na.Ka.No. 8512/2016/NMP-1, dated 10.05.2017 both passed by the 3rd respondent and appointment order of Tmt.Yuvarani W/o.Settu vide Proceeding No.Na.Ka.7916/2019/NMP-1 dated 20.02.2020 passed by the 2nd respondent and to quash the cancellation of appointment order Proceedings No.Na.Ka.No. 8512/2016/NMP-1, dated 10.05.2017 passed against petitioner by the 3rd respondent and appointment order of Tmt.Yuvarani W/o.Settu vide Proceeding No.Na.Ka.7916/2019/NMP-1 dated 20.02.2020 passed by the 2nd respondent consequently direct the respondents to permit petitioner to join duty in the post of “Nutritious Meal Cook Assistant” in Sethupattu Panchayat Union Middle School, Alliyalamangalam, with all service benefits including back wages from the original date of joining duty on 22.04.2017 based on petitioners appointment order Proceedings No.Na.Ka.No. 8512/2016/NMP-1, dated 20.04.2017 issued by the 3rd respondent.

[Prayer amended vide order dated 15.09.2022 made in WMP No.23268 of 2022 in



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For Petitioner

: Mr.Dr.R.Sampathkumar

For Respondents

: Mr.V.Arun

Additional Advocate General

assisted by

Mrs.S.Anitha

Special Government Pleader

for R1 to R4

ORDER

The cancellation of appointment made by the respondents are sought to be quashed in the present writ petition.

2.The petitioner was appointed as Nutritious Meal Cook Assistant in Panchayat Union Middle School at Alliyalamangalam. The petitioner was appointed after due process of selection and there was no irregularity in the matter of selection conducted by the competent authorities. The petitioner was selected and appointed in proceedings dated 20.04.2017 and she has joined accordingly.

3.The appointment order was cancelled by the respondents in proceeding dated 10.05.2017 stating that the petitioner has given a false information regarding the immovable property possessed by her. However, there is no prohibition for considering the candidates who all are having an immovable property in their name



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for appointment to the post of Cook Assistant. In the absence of any such prohibition in the Government guidelines, there is no impediment for appointing the candidates who all are holding an immovable property.

4.The learned counsel for the petitioner made a submission that the petitioner is a destitute women and deserted by her husband. It is further contended that the property does not stand in the name of the writ petitioner and considering all these facts and circumstances she was selected and appointed as Cook Assistant. Thus, the cancellation is improper and in violation of the Government guidelines issued for appointment of Cook Assistants in Panchayat Union Middle Schools.

5.The learned Additional Advocate General appearing on behalf of the respondents made a submission that the appointment of the writ petitioner was cancelled on the ground that she had suppressed the immovable property possessed by her and the said fact was ascertained by the authorities after issuing the order of an appointment. Further, the post in which the petitioner was appointed became vacant and another candidate namely Smt.Yuvarani was appointed on compassionate ground and the said candidate was transfered to some other centre



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without having knowledge about the interim order passed by this Court on 19.05.2017. However, the post in which the petitioner was appointed now became vacant and there is no impediment to accommodate the petitioner in the post of Cook Assistant in which the petitioner was selected and appointed as per the recruitment notification issued by the respondents.

6.Holding an immovable property is not a prohibition under the guidelines issued by the Government. However, the competent Selection Committee made overall assessment of candidates for the purpose of selection. In the present case, the overall assessment was made during the relevant point of time and the petitioner was selected and appointed. That being the factum, cancellation now made merely on the ground that the writ petitioner possessed an immovable property is improper and not in consonance with the Government guidelines issued for selection and appointment for the post of Cook Assistant.

7.The learned counsel for the petitioner brought to the notice of this Court that the petitioner is a deserted women and not possessing any property in her own name and for all these reasons, this Court do not find any justification in cancelling



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the order of appointment already made in favour of the writ petitioner in proceeding dated 20.04.2017. That apart, the post in which the petitioner was selected and appointed is now vacant and therefore, the petitioner must be allowed to continue in the same post. For these reasons, the order impugned issued by the 3rd respondent dated 10.05.2017 is quashed. The respondents are directed to reinstate the petitioner in service, within a period of two weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioner is not entitled for back wages for the period in which she has not served as the principles of “No Work, No Pay” would be applicable.

8. Accordingly, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Internet : Yes
Speaking order : Yes
ssr



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WEB COPY

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S.M.SUBRAMANIAM, J.

SSR

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