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W.P.No.32048 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.32048 of 2022
and W.M.P.No.31483 of 2022

M. Sathish Kumar

.. Petitioner

Vs.

- 1.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai – 5.
- 2.The District Collector,
Dharmapuri,
Dharmapuri District.
- 3.The District Adi Dravidar & Tribal Welfare Officer,
Dharmapuri,
Dharmapuri District.
- 4.The Special Thasildar,
Adi Dravidar Welfare Department,
Papireddypatti,
Dharmapuri District.
- 5.The Project Officer,
Tribunal Welfare Department,
Dharmapuri District.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the second respondent in Na.Ka.No.6892/2022/Ko2 dated 28.07.2022 and quash the same and continue to work in the post of Cook based on the order of appointment issued by the third respondent dated 18.02.2021.

For Petitioner : Mr.B. Sundarapandiyan

For Respondents : Mr.Haja Nazirudeen,
Additional Advocate General – 1
Assisted by Mrs.C. Sangamithrai,
Special Government Pleader
and Mr.P. Haribabu,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned termination order dated 28.07.2022 issued by the second respondent, under which, the services of the petitioner as a Cook, has been terminated.

2. Heard Mr.B. Sundarapandiyan, learned counsel for the petitioner. Mr.Haja Nazirudeen, learned Additional Advocate General – 1, assisted by Mrs.C. Sangamithrai, learned Special Government Pleader and Mr.P.Haribabu, learned Government Advocate, accepts notice on behalf of



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the respondents. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The petitioner was working as a Cook in Adi Dravidar Welfare Department Government Tribal High School, Chithari, Dharmapuri District. On account of the petitioner's over qualification as he has passed 10th standard, the impugned termination order 28.07.2022 has been issued. Admittedly, no show cause notice was issued to the petitioner prior to his termination. The petitioner has been working as a Cook in Adi Dravidar Welfare Department Government Tribal High School, Chithari, Dharmapuri District, right from 18.02.2021 onwards.

4. In a similar matter, where the services of the Cooks were terminated either on account of:

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

wherein also, no show cause notice was issued by the respondents, this Court had quashed the impugned orders on 10.11.2022 in a batch of Writ



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Petitions in W.P.No.23381 of 2022 etc.

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5. Subsequently, in a similar matter in W.P.No.23664 of 2022, this Court had passed an order dated 15.11.2022 and the following directions were issued:

“6. 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 petitioner with regard to the termination, within a period of two weeks from the date of receipt of a copy of this order,

b) On receipt of the said show cause notice, the petitioner, if aggrieved by the same shall send a reply stating his objections, within a period of two weeks thereafter.

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

d) The service of the petitioner who if she was in service as a Cook on the date of passing of the impugned order shall not be disturbed by the respondents until further orders of this



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Court.”

6. Since the petitioner is similarly placed, the same order shall enure to his benefit also and the same procedure that was directed to be followed by the respondents in the aforesaid order dated 15.11.2022 passed in W.P.No.23664 of 2022, has to be followed for the petitioner also.

7. For the foregoing reasons, the impugned order dated 28.07.2022 is hereby quashed and the Writ Petition is disposed of, by directing the respondents to strictly adhere to the procedures stipulated in the order of this Court dated 15.11.2022 in W.P.No.23664 of 2022 and only thereafter, shall pass final orders. The respondents shall not disturb the service of the petitioner as a Cook if he was in service on the date of passing of the impugned order, till final orders are passed by the respondents. No costs. Connected miscellaneous petition is closed.

30.11.2022

Speaking/Non-speaking order

Index: Yes/No

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Note: Issue Order Copy on 01.12.2022



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ABDUL QUDDHOSE,J.

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To

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