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W.P.No.17433 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.17433 of 2017
and W.M.P.No.18939 of 2017

V.Santhi

...Petitioner

Vs.

1.The Personal Assistant (Noon Meal) to
the District Collector, Thiruvannamalai,
Thiruvannamalai District.

2.The Commissioner,
West Arani Panchayat Union,
Arani Taluk, Thiruvannamalai District.

...Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Na.ka.No.8512/2016/Sa.Voo.thi 1 dated 10.05.2017 and quash the same and direct the respondents to reinstate the petitioner in service as cook Helper at the Panchayat Union Elementary School, Kamakoorpalayam with all attendant benefits.



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For Petitioner : Mr.P.Mohanraj
For Respondents : Mr.V.Arun
Additional Advocate General
assisted by
Mrs.S.Anitha
Special Government Pleader

ORDER

The cancellation of appointment of the writ petitioner is under challenge in the present writ petition.

2.The petitioner states that she was appointed to the post of Cook Helper at Panchayat Union Elementary School at Kamakoorpalayam in Arni Panchayat Union, Thiruvannamalai District. Pursuant to the order of appointment dated 20.04.2017, the petitioner joined as Cook Helper in the said center and was working. While so, the order of appointment was canceled in impugned proceedings dated 10.05.2017 on the ground that the petitioner has given a false information regarding the employment of her husband who is working in Government services.



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3.The learned counsel for the petitioner states that the petitioner was selected after due process of selection and she was successful in the selection process. There was no irregularity in respect of the selection made and the petitioner was appointed as she secured highest marks in the selection process. The employment of the spouse of an employee is not a ground to cancel the appointment. There is no impediment for appointing a candidate whose spouse is employee in Government services. In view of the fact that there is no specific prohibition under the Government guidelines, the order of cancellation is not justified.

4.The learned counsel for the petitioner made a submission that the order of appointment was canceled even without issuing any show cause notice and an opportunity to the writ petitioner and thus, the principles of natural justice has been violated.

5.That apart, the employment of the husband of the petitioner is not a prohibition to consider the case of the writ petitioner and the Selection Committee considered all the facts and circumstances during the relevant point of time during the process of selection and appointed the petitioner to the post of Cook Helper.



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This being the factum, the impugned order of cancellation is not justified, since the reasons stated for such cancellation is not in consonance with the Government guidelines issued for appointment to the post of Cook Helper and that apart, there is no specific prohibition to appoint the candidates whose spouse is employed in Government services. For these reasons, the order impugned issued by the 1st 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.

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

26.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
SSR

To



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S.M.SUBRAMANIAM, J.

SSR

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