



WEB COPY

W.A(MD)No.195 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)No.195 of 2022

and

C.M.P(MD)No.1906 of 2022

V.Subbulakshmi

.. Appellant/
3rd Respondent

Vs.

1.P.Valliammal

.. 1st Respondent /
Petitioner

2.The District Collector,
Tuticorin District,
Tuticorin.

3.The District Project Officer (In-charge),
Integrated Child Development Scheme,
Tuticorin District,
Tuticorin.

.. Respondents
2 and 3 / Respondents 1 and 2

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 31.01.2022 passed in W.P(MD)No.2190 of 2018 by the learned Single Judge.

Prayer in WP(MD). 2190/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent under the proceedings No.A1/2485/2017-AW 351 dated 09.09.2017 and quash the same as void, illegal, unlawful and direct the respondents 1 & 2 to appoint the petitioner for the post of Anganwadi Worker, (Anganvadi Paniyalar), Mudivathanendhal East, Tuticorin district by considering petitioner's application dated 19.08.2017.

For Appellant : Mr.G.Thalaimutharasu

For Respondent No.1 : Mr.M.Ponniah

For Respondents 2 and 3 : Mr.S.R.A.Ramachandran,
Additional Government Pleader.



J U D G M E N T

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 31.01.2022 recorded on W.P(MD)No.2190 of 2018. This appeal is by the third respondent in the writ petition.

2.1 Learned advocate for the appellant has submitted that the appointment of the appellant by the State authorities, on the basis of the policy of the State, was legal and interference in the writ petition was not warranted and therefore the appeal be entertained. It is submitted that para : 2.8 of the Government Order deals with the residency criteria which reads as under:

"2.8 Residency

The Government direct that the applicant should be the resident of the same hamlet. If no eligible / suitable candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, eligible / suitable candidates are not available, the candidates from the neighbouring panchayats located within 10 kms. shall be considered for the appointment of Anganwadi worker.

...."

2.2 It is submitted that, implementation of the policy of the State in no way could be said to be erroneous and therefore the decision of the State ought not to have been interfered with. It is submitted that the impugned order be set aside.

3.1 On the other hand, learned advocate for the first respondent - original writ petitioner has submitted that, the writ petitioner and the present appellant both are normal residents of the same village and therefore the interference by the learned Single Judge, on the basis of the material on record cannot be said to be erroneous and therefore no interference be made by this Court and this appeal be dismissed.

3.2 Learned advocate for the writ petitioner has also tendered an additional paper book and a comparative statement in support of his submissions. It is also submitted that distance cannot be the criteria to offer public employment, the same being in conflict with the provisions of Constitution of India more particularly Article 16(4) thereof. Reliance is placed on the decisions of this Court in P.Vasanth v. The District Collector and Others reported in 2007 6 MLJ 402 and Union of India rep. by Director of Education, Directorate of Education, Pondicherry v. The Central Administrative Tribunal rep. by Registrar Chennai and



Another reported in 2008 5 MLJ 226. It is submitted that this appeal be dismissed.

4. Learned Additional Government Pleader for the respondents 2 and 3 has submitted that the details with regard to normal residence of the writ petitioner and present appellant both are matter of record and the same were duly taken into consideration by the Selection Committee and based on that marks were awarded, keeping in view the policy of the State. It is submitted that the appointment given by the State was strictly in accordance with law and considering this, appropriate orders be passed by this Court.

5. Having heard learned advocates for the respective parties and having considered the material on record this Court finds that, the dispute is regarding appointment as Anganwadi Worker. It is not in dispute that the present appellant is the normal resident of the hamlet where the Anganwadi centre is situated. It is also not in dispute that the writ petitioner is not a normal resident of that hamlet. On conjoint consideration of this, we find that, the claim of the writ petitioner could not have been accepted, keeping in view the policy of the State quoted above. The policy of the State, in the facts of this case, was rightly implemented by the Authorities and the present appellant could not have been said to be occupying the post against the policy of the State. In view of this, we find that the implementation of the policy by the State in this case could not be said to be erroneous in any manner and therefore the Writ Court in the facts of this case should not have interfered in the decision of the State. This appeal therefore needs to be allowed.

6. So far the argument with regard to the distance criteria in public employment being unconstitutional is concerned, true it is that the place of residence of a citizen can not be a guiding factor, however when it comes to taking care of children of a particular hamlet, it would be in the interest of those children if a normal resident of that hamlet takes care of them. Keeping this in view, it is the Government which has accepted it as the policy, that as far as possible normal resident of that hamlet will be given preference and only when such a candidate is not available, adjoining hamlet will be taken into consideration. Not only that policy is not under challenge, we find that when it comes to appointment as Anganwadi Worker, distance is certainly a guiding factor. If the distance criteria is kept in view by the State, the same according to us can not be said to be illegal in any manner. The interference by the Writ Court, in this case, according to us was erroneous and therefore the same needs to be corrected.



7. For the reasons recorded above, this appeal is allowed and the order of the learned Single Judge is quashed and set aside. The appointment order given by the State authorities in favour of the present appellant stands restored. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

smn/40

To

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The District Project Officer (In-charge),
Integrated Child Development Scheme,
Tuticorin District,
Tuticorin.

+1 CC to M/s.SPL GP (SR-14540[F] dated 25/03/2022)

+1 CC to M/s.M.PONNIAH, Advocate (SR-14095[F] dated 24/03/2022)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-14650[F] dated 25/03/2022)

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SS(CO)

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