



W.P(MD)No.15743 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)Nos.15743, 17014, 17025, 17056 &
17063 of 2022**

and

**W.M.P(MD)Nos.11332, 12378, 12395, 17398, 12444,
17421, 12445 & 17409 of 2022**

W.P(MD)No.15743 of 2022:

K.Parvathy

... Petitioner

Vs

- 1.The State represented by
The Additional Chief Secretary
to Government,
Scheduled Caste & Scheduled Tribes
Welfare Department,
Secretariat,
Chennai.
- 2.The Commissioner,
Commissionerate of Adi-Dravidar Welfare,
Chepauk,
Chennai – 5.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli.



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4.The District Collector,
Tenkasi District,
Tenkasi.

5.The District Scheduled Caste &
Scheduled Tribes Welfare Officer,
Office of the District Scheduled Caste &
Scheduled Tribes Welfare Officer,
Tirunelveli,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fifth respondent vide his proceedings in Na.Ka.No.A4/13433/2020 dated 08.07.2022 and quash the same as illegal and consequently, to direct the respondents to reinstate the petitioner in service with all other attended monetary benefits.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader

W.P(MD)No.17014 of 2022:

V.Murugan

... Petitioner

Vs

1.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 5.



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2.The District Collector,
Collectorate,
Tirunelveli District.

3.The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

4.Ve.Thiagarajan,
The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the proceedings bearing Na.Ka.No.A4/13433/2020 dated 08.07.2022 terminating the petitioner from the post of Cook at Government Adi Dravidar Welfare Post Graduate College Boys Hostel, Tirunelveli New Bus Stand, Palayamkottai, Tirunelveli District and to quash the same and consequently direct the third respondent to reinstate the petitioner in service with all back wages with effect from 11.05.2022 in the nature and circumstances of the case, within a time frame that may be stipulated by this Court.

For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader



W.P(MD)No.15743 of 2022

W.P(MD)No.17025 of 2022:

A.Illangovan

... Petitioner

Vs

1.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 5.

2.The District Collector,
Collectorate,
Tirunelveli District.

3.The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

4.Ve.Thiagarajan,
The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the proceedings bearing Na.Ka.No.A4/13433/2020 dated 08.07.2022 terminating the petitioner from the post of Cook at Government Adi Dravidar Welfare Boys Hostel, Tenkasi, Tenkasi District and to quash the same and consequently direct the third respondent to reinstate the petitioner in service with all back wages with effect from 11.05.2022 in the nature and circumstances of the case, within a time frame that may be stipulated by this Court.



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For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader

W.P(MD)No.17056 of 2022:

P.Navanitha Krishnan

... Petitioner

Vs

1.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 5.

2.The District Collector,
Collectorate,
Tirunelveli District.

3.The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

4.Ve.Thiagarajan,
The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the proceedings bearing



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Na.Ka.No.A4/13433/2020 dated 08.07.2022 terminating the petitioner from the post of Cook at Government Adi Dravidar Welfare Boys Hostel, Palayamkottai, Tirunelveli District and to quash the same and consequently direct the third respondent to reinstate the petitioner in service with all back wages with effect from 11.05.2022 in the nature and circumstances of the case, considering the order passed by this Court in W.P(MD)No.3502 of 2016 dated 27.06.2019, within a time frame that may be stipulated by this Court.

For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader

W.P(MD)No.17063 of 2022:

M.Vinayaga Murthy

... Petitioner

Vs

- 1.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 5.
- 2.The District Collector,
Collectorate,
Tirunelveli District.
- 3.The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.



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4. Ve. Thiagarajan,
The District Adi-Dravidar and
Tribal Welfare Officer,
Adi-Dravidar and Tribal Welfare Officer,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the proceedings bearing Na.Ka.No.A4/13433/2020 dated 08.07.2022 terminating the petitioner from the post of Cook at Government Adi Dravidar Welfare Boys Hostel, Kadayanalloor, Tenkasi District and to quash the same and consequently direct the third respondent to reinstate the petitioner in service with all back wages with effect from 11.05.2022 in the nature and circumstances of the case, within a time frame that may be stipulated by this Court.

For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.



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2. The writ petitioners were appointed as Cooks on 25.02.2021 by the District Adi-Dravidar and Tribal Welfare Officer, Tirunelveli District. The appointments were cancelled on 11.05.2022. Challenging the same, the petitioners filed writ petitions before this Court. Since the cancellation orders were passed in violation of principles of natural justice, the orders dated 11.05.2022 were set aside and the matters were remanded to the file of the competent authority for fresh consideration. Thereafter, notice was issued. After holding enquiry, the impugned orders once again cancelling the appointments were passed on 08.07.2022. Challenging the same, these writ petitions have been filed.

3. The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to set aside the impugned orders and grant relief as prayed for.

4. Per contra, the respondents filed counter affidavits and the learned Additional Advocate General took me through their contents. He pressed for dismissal of the writ petitions.



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5. I carefully considered the rival contentions and went through the materials on record.

6. All the orders impugned in the writ petitions proceed on the premise that the writ petitioners are overaged. According to the learned Additional Advocate General, as per the Special Rules for the Tamil Nadu Basic Service, the upper age for the Scheduled Caste candidates is 35 years on the date of appointment. In the case on hand, the age particulars are as follows:

Sl No	Case No	Name	Age
1	WP(MD)No.15743 of 2022	K.PARVATHY	36 yrs 8 months 1 day as on 30.12.2020
2	WP(MD)No.17014 of 2022	MURUGAN	41 yrs 7 onths 20 days as on 30.12.2020
3	WP(MD)No.17025 of 2022	ILANGO VAN	35 yrs 7 months 14 days as on 30.12.2020
4	WP(MD)No.17056 of 2022	NAVANITHA KRISHNAN	40 yrs 10 months 29 days as on 30.12.2020
5	WP(MD)No.17063	VUNAYAGA MOORTHY	41 yrs 6 months 19 days as on 30.12.2020

7. The learned Additional Advocate General contended that the impugned orders have been rightly passed. He would also contend that the Government Order providing for extension by two more years cannot be retrospectively applied to the case of the petitioners. Admittedly, the petitioners' appointment



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was made in February 2021 and therefore, they cannot take umbrage behind the aforesaid Government Order. The impugned order has been rightly passed and he pressed for dismissal of writ petitions.

8. I must deal with first contention of the learned counsel appearing for the petitioners that the Special Rules for Tamil Nadu Basic Services is not applicable to the case on hand and that the petitioners are governed by Tamil Nadu Adi-Dravidar Welfare Subordinate Service. The constitution of the Tamil Nadu Adi-Dravidar Welfare Subordinate Service comprises 6 classes of posts. The post of cook is not figuring anywhere therein. Therefore, it is not possible for me to accept the contention that the Rules governing Tamil Nadu Adi -Dravidar Welfare Subordinate Service should be applied in the case of cooks also.

9. The post of cook falls under Class 4 category 2 of Tamil Nadu Basic Service. As per Proviso 2 Rule 5 (i) of Tamil Nadu Basic Service, the age limit for candidates belonging to Scheduled Caste community would be 35 years of age on the date of appointment. Section 20(8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 reads as follows:

“**20.(8)** The maximum age limit prescribed in the special rules shall not apply—



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(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Class or Denotified Communities or of destitute widows of all castes

to a post included in a service for which the special rules prescribe a qualification lower than a degree of any University recognized by the University Grants Commission, if such candidate possesses a general educational qualification which is higher than that referred to in sub-section (1) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes and Denotified Communities or of destitute widows of all castes who holds a degree of any University recognized by the University Grants Commission, if the degree he holds is not lower than the degree prescribed in the special rules for appointment to such post and if he is otherwise qualified for appointment:

Provided that, for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes or in respect



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of destitute widows of all castes, who do not possess a general educational qualification, which is higher than the minimum general educational qualification.”

10. Proviso to Section 20(8)(2) gives further extension by five years for Scheduled Caste candidates who do not possess general education qualification that is higher than the minimum general education qualification. It is not in dispute that the minimum education qualification is pass in 10th Standard. The minimum qualification prescribed for the post of cook is only 10th Standard fail. Therefore, it is not higher than the minimum general education qualification. The petitioners herein are belonging to the Scheduled Caste community. Therefore, the age limit has to be increased by 5 more years. I have already noted that the maximum age limit prescribed in the Special Rules for general candidate is 30. The Special Rules themselves further enhance the limit by 5 years in favour of Schedule Caste candidates. The learned Additional Advocate General would state that since Scheduled Caste candidates have already been given increase by 5 years in Special Rules, they cannot once again claim under Section 20(8) of 2016 Act. In my view, the beneficial provision meant for the benefit of Scheduled Caste candidates should not be given restrictive interpretation. Under the Special Rules, the maximum age prescribed for Scheduled Caste candidates will be 35 years. By applying the



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aforesaid proviso, I hold that the age limit prescribed for the petitioners will be

40.

11. I was originally inclined to invoke G.O(Ms)No.91 dated 13.09.2021 but as rightly contended by the learned Additional Advocate General, the said Government Order cannot be retrospectively applied to the case of the writ petitioners. So the writ petitioners in W.P(MD)Nos.15743 of 2022 and 17025 of 2022 have to succeed and the impugned orders are set aside. These writ petitions are allowed. W.P(MD)Nos.17014 of 2022 and 17063 of 2022 are dismissed.

12. Coming to the petitioner in W.P(MD)No.17056 / P.Navanitha Krishnan, it is seen that he was already a participant in the recruitment process held in the year 2016. The post was ordered to be kept vacant when he filed W.P(MD)No. 3502 of 2016.

13. When the matter was taken up for final disposal, the department took the stand that they had not kept one post vacant. Therefore, it was ordered that he would be considered as against the next vacancy. In view of the special circumstances obtained by P.Navanitha Krishnan, age limit cannot be applied against him. The order impugned in W.P(MD)No.17056 of 2022 is also set aside and the writ petition is allowed. There shall be no order as to costs in all



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the writ petitions. Consequently, all the connected miscellaneous petitions are closed.

24.11.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Additional Chief Secretary
to Government,
Scheduled Caste & Scheduled Tribes
Welfare Department,
Secretariat,
Chennai.
- 2.The Commissioner,
Commissionerate of Adi-Dravidar Welfare,
Chepauk,
Chennai – 5.
- 3.The District Collector,
Tirunelveli District,
Tirunelveli.
- 4.The District Collector,
Tenkasi District,
Tenkasi.
- 5.The District Scheduled Caste &
Scheduled Tribes Welfare Officer,
Office of the District Scheduled Caste &
Scheduled Tribes Welfare Officer,
Tirunelveli,
Tirunelveli District.



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6.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai – 5.



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G.R.SWAMINATHAN, J.

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