



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.6330 of 2018

and

W.M.P. (MD) .Nos.6181 and 6182 of 2018

P.Benitha Sharmila

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Kuruvikulam Panchayat Union,
Kuruvikulam,
Tirunelveli District.

3.The Correspondent,
TELC Primary School,
Ilaiyarasanendal Village,
Kovilpatti Taluk,
Thoothukudi District.

4.M.Karpagavalli

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned order of appointment issued to the fourth respondent vide his proceedings in Na.Ka.No.19/47867/2016 dated 19.02.2018 and quash the same as illegal, arbitrary and violation of G.O.Ms.No.4, Social Welfare and Nutritious Scheme (Sa.Vu.Thi.2) Department dated 06.01.2011 and consequently direct the first respondent to appoint the petitioner as Nutritious Noon Meal Organiser in the third respondent School within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For R-1 to R-3 : Mr.V.Omprakash
Government Advocate(Civil Side)

For R-4 : Mr.I.Pinnayagash

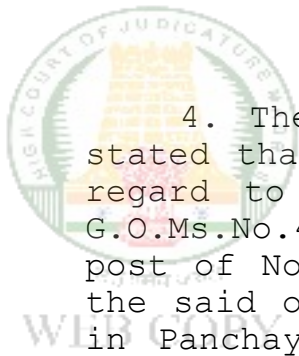


ORDER

This Writ Petition is filed to quash the impugned order dated 19.02.2018 as it is in violation of G.O.Ms.No.4, Social Welfare and Nutritious Scheme (Sa.Vu.Thi.2) Department dated 06.01.2011 and consequently, direct the first respondent to appoint the petitioner as Nutritious Noon Meal Organizer in the third respondent's School.

2. The brief facts of the case are that the petitioner hails from a poor Christian family coming under the category of Backward Class community. Out of the hard work of her parents, the petitioner completed SSLC in the year 1993 and HSC in the year 1996 and enrolled her name in the District Employment Exchange, Thoothukudi for getting a job opportunity. The first respondent has issued call through local dailies in the nature of news articles inviting application from the eligible candidates for the post of Nutritious Noon Meal Organiser for primary schools in the entire district including school run by minorities. Since the petitioner is permanently residing within the jurisdiction of Tirunelveli Educational District and in the very same street of TELC School, the petitioner applied for the said post. After scrutinizing the petitioner's eligibility criteria and the performance in the interview dated 31.01.2018, the first respondent vide proceedings dated Nil.02.2018, directed the third respondent to appear before him in person on 06.02.2018 and submit his proposal in regard to appointment of Nutritious Noon Meal Worker in accordance with G.O.Ms.No.4, Social Welfare and Nutritious Scheme (Sa.Vu.Thi.2) Department dated 06.01.2011.

3. The contention of the petitioner is that since the petitioner is the senior most candidate by age having this opportunity as a last chance to get into Government service, moreover residing in the same street of TELC School, the third respondent appeared before the first respondent on 06.02.2018 and strongly recommended the petitioner's name for appointment to the said post. The third respondent vide letter dated 10.02.2018 sent his proposal once again to the first respondent requesting the District Collector to appoint the petitioner as a Nutritious Noon Meal Organiser for his School based on age, seniority and indigent circumstances of the petitioner's family. However, the first respondent, without considering the petitioner's seniority and without following G.O.Ms.No.4, has issued an appointment order to the fourth respondent vide proceedings dated 19.02.2018. The contention of the petitioner is that when two or more persons are placed in a same rank, then the senior most by age ought to have been given priority in the appointment. But, the first respondent, without following the due process of law, has issued an appointment order to the fourth respondent. In spite of recommendation from the third respondent, the first respondent has passed an order of appointment to the fourth respondent. The first respondent has not considered the representation of the petitioner. Aggrieved over,



4. The second respondent has filed a counter, wherein, it is stated that the Government, in supersession of earlier orders with regard to appointment of noon meal staff, has issued orders in G.O.Ms.No.4 prescribing the method of selection to appoint to the post of Noon Meal Organizer, Cook and Cook Assistant. According to the said order, in respect of minority welfare school meal centers in Panchayat Union area, the Panchayat Union Commissioner has to notify the vacancies and then receive applications, conduct enquiry and select eligible candidates for the posts concerned. After drawing a selection list based on the interview, the Panchayat Union Commissioner should ask the Correspondent/Headmaster of the minority welfare school to see the list and they should select five persons out of the selection list. Based on the selection, the Collector in respect of Noon Meal Organizer and the Personal Assistant of the Collector in respect of Cook and Cook Assistant should select a person and then, issue an appointment order and there is no need to adopt communal rotation in respect of minority welfare school meal centers.

5. Further, it is stated that in the instant case, the second respondent had notified the vacancy for the post of Noon Meal Organizer in third respondent's School and 26 persons had submitted applications for the said post. The first respondent vide proceedings dated 24.01.2018 formed 7 committees consisting of Deputy Collector / Joint Director / Assistant Director cadre officers 3 each so as to conduct interview on 31.01.2018 at Collectorate, Tirunelveli. In turn, the second respondent in respect of third respondent's School has issued call letters on 23.01.2018 to 26 persons, who applied for the said post. The Committee consisting of 3 officers had conducted interview and 26 persons attended the interview. Then, the first respondent vide letter dated 01.02.2018 directed the third respondent to attend Collectorate on 06.02.2018 to see the list of 24 persons and to select 5 persons from the list. The third respondent attended the Collectorate on 06.02.2018 and selected 5 persons including the petitioner and the fourth respondent. Out of the list of 5 persons, the first respondent selected the fourth respondent. Then, the first respondent vide proceedings dated 19.02.2018 issued an appointment order to the fourth respondent and she joined duty on 21.02.2018. The said appointment was carried out according to the Government Order and the appointment is legally valid. The petitioner cannot claim a right to appointment order. The fourth respondent is residing in the same Village within a kilometer radius from the third respondent's School. Therefore, the contention of the petitioner that she is living in the same street is not acceptable. There is no violation of G.O.Ms.No.4. Hence, the appointment of the fourth respondent is legally valid and the second respondent prayed to dismiss the Writ Petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and the

<https://hccasebooks.com/hccases/> for the fourth respondent and perused the records.



7. The contention of the petitioner is that since the third respondent's School has recommended the petitioner's name, the first respondent ought to have issued appointment order to the petitioner. This contention is not acceptable for the reason that the interview / selection process was carried out in accordance with G.O.Ms.No.4. The first respondent has selected 24 persons among 26 persons, who attended the interview. From and among the 24 persons, the third respondent was directed to select 5 persons and the third respondent had selected the petitioner as well as the fourth respondent, who will come under the list of 5 persons. From and among the said 5 persons, the District Collector has selected the fourth respondent and since the fourth respondent seems to be meritorious than the petitioner, there is no infirmity pointed out by the petitioner apart from the recommendation of the third respondent. Moreover, the fourth respondent is in service from the year 2018 for the past three years and hence, the appointment of the fourth respondent cannot be disturbed. The petitioner has not raised any valid grounds to interfere with the appointment of the fourth respondent. Therefore, the Writ Petition fails.

8. Hence, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Kuruvikulam Panchayat Union,
Kuruvikulam,
Tirunelveli District.

+1 CC to M/s.I. PINAYGASH,Advocate(SR-21717[F]dated 27/04/2022)
+1 CC to M/s.SPL.GP. (SR-22113[F] dated 28/04/2022)

ORDER MADE IN
W.P. (MD) .No.6330 of 2018
26.04.2022

PKP/01.06.2022/5P/5C

<https://hcservices.ecourts.gov.in/hcservices/>