



W.P.(MD).No.20785 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.20785 of 2014

S.Shanmugasundaram

... Petitioner

Vs.

1.The Principal Secretary to the Government,
Department of Social Welfare,
Secretariat,
Chennai – 600 009.

2.The Director,
Department of Social Welfare,
Sindadiripet,
Chennai – 600 005.

3.The Principal Secretary/
Special Commissioner,
ICDS,
Tharamani,
Chennai – 600 113.

4.The District Project Officer,
Child Development Project,
Sivagangai District,
Sivagangai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to declare the outcome of the report of the committee formed vide G.O.Ms.No.37, dated 28.02.2011 which was formed for the purpose of getting rid of discrepancies in G.O.Ms.No.12, dated 12.10.2010 at the earliest and consequently confer on the petitioner all benefits including monetary benefits and pensionary benefits etc., that may be conferred by the above G.O.Ms.No.37 dated 28.02.2011.

(Prayer amended vide Court Order dated 01.12.2020 made in W.M.P.(MD).No. 13020 of 2019 in W.P.(MD).No.20785 of 2014).

For Petitioner : Mr.S.Satheesh Kumar

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General,
Assisted by,
Mrs.D.Farjana Ghoushia,
Special Government Pleader.

ORDER

This Writ Petition is filed for Mandamus directing the first respondent to declare the outcome of the report of the committee formed vide G.O.Ms.No.37, dated 28.02.2011 which was formed for the purpose of getting rid of discrepancies in G.O.Ms.No.12, dated 12.10.2010 at the earliest and



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consequently confer on the petitioner all benefits including monetary benefits and pensionary benefits etc., that may be conferred by the above G.O.Ms.No.37 dated 28.02.2011.

2. When the Writ Petition was pending, the respondents filed a petition to amend the prayer in W.M.P.(MD).No.13020 of 2019 and the same was allowed vide order dated 12.12.2020, where a consequential prayer of benefits including monetary and pensionary benefits was prayed.

3. The brief facts as stated in the affidavit are that the petitioner was appointed as Noon Meal Organizer on 01.02.1983. The respondents issued G.O.Ms.No.12 dated 12.10.2010. The said Government Order stipulated that the qualified Male Noon Meal Organizer and Anganwadi Workers be appointed as Record Clerk and Office Assistant. The qualified Women Noon Meal Organizers be appointed as Grade-II Supervisors. Since there is a rule that the qualified Noon Meal Organizer has to serve as Office Assistant for being promoted as Record Clerk and hence on the basis of State wide seniority, the Noon Meal Organizers who have served as Office Assistant to be promoted as Record Clerk.



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4. The contention of the petitioner is that G.O.Ms.No.12 discriminates based on gender. The qualified male being promoted as Office Assistant, whereas, qualified female is promoted as Grade-II Supervisor. Since the Principal Secretary of Government in order to get rid of gender discrepancies in G.O.Ms.No.12 has passed G.O.Ms.No.37 dated 28.02.2011, thereby, a committee was constituted to clear all the discrimination. Even though the committee was formed as early as on 2010, nothing was moved to get rid of discrimination. Therefore, the petitioner has filed this Writ Petition. Pending Writ Petition, the petitioner attained superannuation and was retired on 31.05.2019. Therefore, the consequential prayer sought for by the petitioner to give all monetary and pensionary benefits.

5. The respondents have filed two counter affidavits but the respondents are not stating anything regarding G.O.Ms.No.37 and has not stated anything about the status of the committee's report. The counter only states that subsequently there is a fire accident and the papers are not traceable.



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6. This Court cannot close its eyes when there is clear discrimination that was crept in G.O.Ms.No.12. Therefore, this Court is directing the first respondent to eradicate the discrimination that has been crept in G.O.Ms.No.12 either by constituting new committee or if the report is available, the report shall be implemented at the earliest. If the petitioner is eligible for any benefits based on the report, the same shall be conferred on the petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is allowed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes/ No
Nsr

To

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S.SRIMATHY, J.



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