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W.P.(MD)No.5942 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5942 of 2016
and
W.M.P.(MD)Nos.5272 and 5273 of 2017

A.Jothi

... Petitioner

vs.

- 1.The Commissioner,
Social Welfare and Nutritious Noon Meal
Scheme Department, Chennai.
- 2.The District Collector,
Trichy District, Trichy.
- 3.The Block Development Officer,
Commissioner,
Anthanallur Panchayat Union,
Trichy District.



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4.The Headmistress,
Panchayat Union Primaray School,
Kambarasampettai Colony,
Trichy District 620 101.

5.K. Sarala

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his proceedings in RC.N6/231/15, dated 22.02.2016 and to quash the same and confer all consequential benefits.

For Petitioner	: M/s.J.Mapia Roseline
For R1, 2 and 4	: Mr.P.Thambidurai
	Government Advocate
For R5	: Mr.S.Deenadhayalan
For R3	: No appearance

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the 2nd respondent in his proceedings, dated 22.02.2016 and confer all consequential benefits.



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2.The petitioner applied for the post of Noon Meal Organizer under the notification, dated 02.01.2016. On 09.02.2016, the petitioner and 33 others were called for interview and the petitioner is one of the selected candidates among the 34 candidates. The petitioner prior to the selection was working under National Rural Livelihood Scheme, since December 2014, which is implemented by the 3rd respondent. Thereafter, the petitioner came to know that she was selected for the post of Noon Meal Organizer from the office of the 3rd respondent. The 4th respondent School wherein the petitioner was selected comes under the control of the 3rd respondent. Hence, the appointment order of the petitioner was communicated to the office of the 3rd respondent. Even though the petitioner did not receive the individual copy of appointment order, she was required to join duty by 3rd respondent on the basis of the order communicated by the office of the 3rd respondent. As per the appointment order, dated 19.02.2016, the petitioner was required to join within 7 days from the date of receipt of the copy. Therefore, the petitioner as per the instructions, submitted joining letter to the 3rd respondent on



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25.02.2016 and joined duty and took charge on 26.02.2016.

3.The joining report was also submitted along with the endorsement of the Headmistress of the 4th respondent School. But the petitioner was serving until 01.03.2016. On 02.03.2016, the petitioner was summoned by the 3rd respondent office and the petitioner was directed to relinquish the charge. Thereafter, the petitioner was not allowed to report from 02.03.2016. Aggrieved over the same, the petitioner preferred a writ petition and this Court, vide order, dated 10.03.2016, directed the respondents to permit the petitioner to continue in the job, as per the appointment order, dated 19.02.2016.

4. Pending the aforesaid writ petition, the respondents cancelled the appointment order and cancellation order was passed on 22.02.2016. Therefore, the petitioner has come up with the present writ petition. The contention of the petitioner is that the respondents have not reported before this Court that the



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appointment order was cancelled in the previous litigation. The petitioner has also raised various and prayed to allow this writ petition.

5. The 2nd respondent has filed a counter affidavit stating that the writ petitioner has suppressed her original appointment as cluster level Felicitor Post which is a state post comes under the Tamil Nadu State Rural Livelihood Scheme phase 1, 2, 3 and she was appointed, vide the proceedings of Joint Director, dated 02.12.2014 and she will be getting Rs.7,500/- as monthly salary till 2016. Before applying to the Noon Meal Organizer, the petitioner has not obtained No Objection Certificate from the parent department and the same was not enclosed while applying. Hence, the petitioner has defrauded the Government Department and this was brought to the notice. Subsequently, based on the complaint, enquiry was conducted. After receiving the report, the petitioner was relieved from the post. As per G.O.No.33, Public Welfare and Nutrition Planning Department, dated 05.02.1993, condition was imposed stating that the selection to the Noon



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Meal Organizer in the Government Aided School as well as Private Schools will be considered for only one person in the family to be employed in the Government post and the election should be done based on the same. Since the petitioner's husband, namely Raja is working as Secretary in the Panchayat, the petitioner is not eligible for the Government post. Therefore, the petitioner's appointment was rejected and the respondents prayed to dismiss the writ petition.

6.Heard M/s.J.Mapia Roseline, learned Counsel appearing for the petitioner, Mr.P.Thambidurai, learned Government Advocate appearing for the respondents 1, 2 and 4 and Mr.S.Deenadhayalan, learned Counsel appearing for 5th respondent.

7. The petitioner had admitted that she was earlier appointed in the National Rural Livelihood Scheme. Even the respondents admitted that the



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appointment is in a scheme. This Court has held in several cases if any appointment is made in any scheme, it is only for the said scheme and those persons cannot seek any regularization in the said post. If that logic is applicable in the present case, the petitioner is only employed in a scheme post which cannot be considered as a substantive post in a Government Department. Therefore, the respondents miserably failed to consider this while cancelling the appointment of the petitioner. The respondents had acted upon some complaint which complains that the petitioner's husband is in employment in the Government Department as Panchayat Secretary and the respondents relied on G.O.No.33, Public Welfare and Nutrition Planning Department, dated 05.02.1993 which states that a person in a family is entitled to the appointment in the government job. The respondents had misinterpreted this by stating that only one member of the family is entitled to the Government employment. The Scheme indicates that the entire family members cannot be taken as Noon- Meal Organizer. The scheme is not stating that only one member of the family should employed in the entire Government Department. If



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that argument is accepted, there are so many families in several departments where there are four or five family members employed in the Government Department. The interpretation is absurd. Hence, the petitioner is entitled to relief.

8. The impugned order is quashed and the respondents are directed to grant employment in the same post. The 5th respondent may be accommodated in some other place. The petitioner is not entitled to any backwages for the non employment period, but is entitled to service benefits for the non employment period.

9. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes

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