



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.24015 of 2019

and WMP No.2628 of 2020

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Krishnammal

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by Secretary to Government

Department of Personal and Administrative Reforms Department

Dept. Section for G.O.22 dated 28.02.2006

Secretariat, Chennai.

2.The Commissioner

Department of Social Welfare

Chepauk, Chennai

3.The District Social Welfare Officer,

Kanyakumari District,

Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the 2nd respondent to pass order on the petitioner's representation dated 10.06.2019 given to the 2nd respondent in person for absorbing and regularizing the petitioner's service as Cook/Aaya in the light of the proposal sent by the 3rd respondent in Na.Ka.No.238/2010 dated 09.11.2010 and also other recommendation sent in Na.Ka.No.2149/A1/2017 dated 04.10.2017 for inclusion of the petitioner's name in the state vide seniority list for the said purpose.

For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.A.K.Manikkam

Special Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents to pass order on the petitioner's representation dated 10.06.2019.

2. The petitioner states that she was appointed as Cook/Aaya as per the order of the Deputy Commissioner. The petitioner was appointed in Children Home formed by the Government in the year 2005 to house and maintain the orphaned children affected during TSUNAMI disaster.



3. The learned counsel for the petitioner states that the Government issued G.O.Ms.No.22 dated 28.02.2006 to regularize the services of the temporary employees. Therefore, the benefit of the Government order is to be extended to the writ petitioner.

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4. The order of appointment dated 01.09.2005 reveals that the petitioner was appointed as Cook on consolidated pay. She was transferred to some other place also. However, the initial appointment of the writ petitioner was not in accordance with the service rules in force. When the appointment is irregular and the initial appointment was temporarily made on consolidated pay, the benefit of regularization by permanent absorption cannot be granted in view of the principles settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case of **State of Karnataka v. K.Uma Devi** reported in **2006 (4) SCC 1**.

5. The learned counsel for the petitioner further contended that the State has prepared a list of consolidated employees, who were engaged under the scheme and in the event of considering those candidates, for conferring any benefit, the same is to be extended to the writ petitioner.

6. It is stated that the name of the petitioner is not included in the said list. In this regard, the petitioner shall approach the authorities and the eligibility of the petitioner is to be considered by the competent authority. As far as the benefit of regularization and permanent absorption is concerned, the same cannot be granted in violation of the service rules in force and further more, the initial appointment of the writ petitioner was irregular and thus, the relief as such sought for cannot be granted.

7. The writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Secretary to Government

Department of Personal and Administrative Reforms Department

Dept. Section for G.O.22 dated 28.02.2006

Secretariat, Chennai.

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



2.The Commissioner
Department of Social Welfare
Chepauk, Chennai

3.The District Social Welfare Officer,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.C.DHANASEELAN, Advocate (SR-14959[F] dated
28/03/2022)

+1 CC to M/s.SPL GP (SR-14556[F] dated 25/03/2022)

W.P. (MD) No.24015 of 2019
24.03.2022

MGJ(07.04.2022) 3P 6C