



W.P.No.15474 of 2023 etc. cases

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21..07..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition Nos.15474, 15483, 15486, 15491, 15492,
15493, 14440 & 14441, 14443 of 2023

and

W.M.P.Nos.15023, 15026, 15030, 15034, 15035, 15036,
15037, 13947, 13948 & 13949 of 2023

P.Bhakiyaraj

..... Petitioner in W.P.No.15474 of 2023

S.Meena

..... Petitioner in W.P.No.15483 of 2023

V.Banu

..... Petitioner in W.P.No.15486 of 2023

Meenakshi

..... Petitioner in W.P.No.15491 of 2023

Mahadevi

..... Petitioner in W.P.No.15492 of 2023

A.Shanmugam

..... Petitioner in W.P.No.15493 of 2023

-Versus-

1.The Secretary to Government,
Adi Dravidar Welfare Department,
St. George Fort, Secretariat,
Chennai.

2.The Director,
District Adi Dravidar and Tribal Welfare Officer,
Chepauk, Chennai 600 005.



W.P.No.15474 of 2023 etc. cases

3.The District Collector,
Ariyalur District, Ariyalur.

4.The District Adi-Dravidar and Tribal Welfare Officer,
O/o District Adi Dravidar and Tribal Welfare Office,
Ariyalur District.

..... Respondents

Tmt.Lalitha

..... Petitioner in W.P.No.14440 of 2023

G.Sathish

..... Petitioner in W.P.No.14441 of 2023

Tmt.K.Manonmani

..... Petitioner in W.P.No.14443 of 2023

-Versus-

1.The Secretary to Government,
Adi Dravidar Welfare Department,
St. George Fort, Chennai 600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk, Chennai 600 005.

3.The District Collector,
Ariyalur District, Ariyalur.

..... Respondents in W.P.Nos.14440,
14441 & 14443 of 2023

Prayer in W.P.No.15474 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd



W.P.No.15474 of 2023 etc. cases

respondent in Na.Ka.No.Ma2/6956/2018-4, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.

Prayer in W.P.No.15483 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd respondent in Na.Ka.No.Ma2/6956/2018-7, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.

Prayer in W.P.No.15486 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd respondent in Na.Ka.No.Ma2/6956/2018-11, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.

Prayer in W.P.No.15491 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd respondent in Na.Ka.No.Ma2/6956/2018-9, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.



W.P.No.15474 of 2023 etc. cases

Prayer in W.P.No.15492 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd respondent in Na.Ka.No.Ma2/6956/2018-17, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.

Prayer in W.P.No.15493 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.5969/2018/Ma2, dated 19.04.2023 and to quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to join duty as a Cook based on the order of appointment of the 3rd respondent in Na.Ka.No.Ma2/6956/2018-3, dated 26.02.2021 by providing all attendant benefits to the petitioner attached to his service.

Prayer in W.P.No.14440 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No.5969/2018/Ma2 dated 19.04.2023 and to quash the same and consequently direct the respondents to continue the petitioner in the post of 'Cook' with all monetary benefits.

Prayer in W.P.No.14441 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No.5969/2018/Ma2 dated 19.04.2023 and to quash the same and



W.P.No.15474 of 2023 etc. cases

consequently direct the respondents to continue the petitioner in the post of 'Cook' with all monetary benefits.

Prayer in W.P.No.14443 of 2023: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No.5969/2018/Ma2 dated 19.04.2023 and to quash the same and consequently direct the respondents to continue the petitioner in the post of 'Cook' with all monetary benefits.

*For Petitioner (s) : Mr.N.Balasubramanian
for petitioner in W.P.Nos.15474,
15483, 15486, 15491, 15492 &
15493 of 2023*

*Mr.S.Kamadevan for petitioner in
W.P.Nos.14440, 14441 & 14443
of 2023*

*For Respondent (s) : Mr.V.Jeevagiridharan,
Addl. Government Pleader for
RR1 to 4 in W.P.Nos.15474,
15483, 15486, 15491, 15492 &
15493 of 2023 and RR1 to 3 in
W.P.Nos.14440, 14441 & 14443
of 2023*

COMMON ORDER

These writ petitions challenge the orders of termination of the petitioners from service, who were appointed as cook by the 3rd respondent – District Collector, Ariyalur, mainly on the ground that they were found over aged on the date of employment notification.



W.P.No.15474 of 2023 etc. cases

2. Pursuant to the selection and appointment made by the 3rd respondent by his proceedings dated 26.02.2021, the petitioners joined the services of the Adi Dravidar Welfare Department as Cook and they were posted at different stations in Ariyalur District. While they were working so, the 3rd respondent held an enquiry with the petitioners and found that they were over-aged on the date of notification. Therefore, the 3rd respondent by way of impugned proceedings terminated the services of the petitioners. Hence, these writ petitions.

3. Heard both sides and also perused the records carefully.

4. The services of the petitioners in W.P.Nos.15491, 15492, 15493, 15474, 14440, 14441 & 14443 of 2023 were terminated mainly on the ground of over age while the services of the petitioners in W.P.Nos.15486 and 15483 of 2023 were terminated on the ground that there were discrepancies found in the school transfer certificates with regard to name of the father of the petitioner in W.P.No.15486 of 2023 and date of birth of the petitioner in W.P.No.15483 of 2023.

5. A careful perusal of the available records would go on to show that except the petitioner in W.P.No.1441 of 2023 all other petitioners were below 40 years on the date of employment notification. The 3rd respondent had



W.P.No.15474 of 2023 etc. cases

proceeded to pass impugned orders of termination holding that petitioners were found over-aged on the date of appointment by relying upon the Special Rules for Tamil Nadu Basic Services. It is relevant to note here that the constitution of the Tamil Nadu Adi-Dravidar Welfare Subordinate Service comprises 6 classes of posts and the post of cook did not find a place anywhere therein.

6. A learned single Judge of Madurai Bench of this court while dealing with the similar issue in cases of **K.Parvathy v. State of Tamil Nadu and others** [W.P.(MD) No.15743 of 2022 etc. batch cases, by order dated 24.11.2022 has held thus:-

“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—

(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



WEB COPY



W.P.No.15474 of 2023 etc. cases

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 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



WEB COPY



W.P.No.15474 of 2023 etc. cases

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



WEB COPY



W.P.No.15474 of 2023 etc. cases

aforesaid proviso, I hold that the age limit prescribed for the petitioners will be 40.”

7. Though the 3rd respondent District Collector, Ariyalur, has filed his counter affidavit in W.P.Nos.14440, 14441 and 14443 of 2023 individually denying the averments made in the writ petitions, the learned Additional Government Pleader, on instructions, conceded to the factual position that except the petitioner in W.P.No.14441 of 2023, all other petitioners were within the age limit as on the date of employment notification and they had not crossed 40 years of age. Therefore, the termination of the petitioners, except the petitioner in W.P.No.14441 of 2023, on the ground that they were found over-aged cannot be sustained in the eye of law.

8. Insofar as the contention of higher qualification is concerned, following the judgement of the Apex Court in **Mohd. Riazul Usman Gani v. District and Sessions Judge, Nagpur** (2000) 2 SCC 696, a single Judge of Madurai Bench of this Court in the case of **C.Muthu v. The Commissioner, Adi-Dravidar and Tribal Welfare Department, Chepauk, Chennai – 5** [W.P.(MD) No.16948 of 2022 dated 24.11.2022] has held that when the relevant rules have prescribed only minimum educational qualification, there is no bar against those who are better qualified to take part in the recruitment process and appointment cannot be denied merely on the ground that they are over qualified.



W.P.No.15474 of 2023 etc. cases

9. As far as discrepancies in the school transfer certificates produced by the petitioners in W.P.Nos.15486 and 15483 of 2023, it is needless to point out that the minimum qualification required for the post of cook is only to read and write. The records produced would show that the petitioner in W.P.No.15486 of 2023 is a X drop out and the petitioner in W.P.No.15483 of 2023 has passed V standard. The respondents have not disputed their identity. The discrepancies pointed out by the 3rd respondent would in no way affect the minimum qualification prescribed for appointment to the post. What is required is experience in cooking. The applicant must also know to read and write Tamil. Therefore, when the selection of those petitioners was made following the rules and they were given appointment, it is not proper on the part of the 3rd respondent to terminate their services on a technical ground.

10. For the discussions made above, except W.P.No.14441 of 2023, all other writ petitions succeed and the writ petition in W.P.No.14441 of 2023 must fail.

In the result, Writ Petition Nos.15474, 15483, 15486, 15491, 15492, 15493, 14440 & 14443 of 2023 are allowed. The impugned orders of termination dated 19.04.2023 are set aside. The 3rd respondent is directed to reinstate the petitioners in W.P.Nos.15474, 15483, 15486, 15491, 15492,



W.P.No.15474 of 2023 etc. cases

15493, 14440 & 14443 of 2023 forthwith with continuity of service. Applying

the principle of 'no work, no pay' this court is not inclined to order for back wages to the petitioners. W.P.No.14441 of 2023 is dismissed and the impugned order of termination of the petitioner therein is sustained. No costs. Consequently, connected WMPs are closed.

21..07..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

- 1.The Secretary to Government, Adi Dravidar Welfare Department,
St. George Fort, Secretariat, Chennai.
- 2.The Director,District Adi Dravidar and Tribal Welfare Officer,
Chepauk, Chennai 600 005.
- 3.The District Collector, Ariyalur District, Ariyalur.
- 4.The District Adi-Dravidar and Tribal Welfare Officer,
O/o District Adi Dravidar and Tribal Welfare Office, Ariyalur District.



WEB COPY



W.P.No.15474 of 2023 etc. cases

N.SATHISH KUMAR.J.,

kmk

Writ Petition

Nos.15474, 15483, 15486, 15491, 15492,
15493, 14440 & 14441, 14443 of 2023

21..07..2023