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Writ Petition No.17998 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition No.17998 of 2023

A.Gomathi

W/o.Elumalai

...Petitioner

Vs

1.The District Collector,
Collectorate, Vellore Road,
Vengikkal,
Thiruvannamalai District - 606 604.

2.The Deputy Secretary,
Directorate of Social Welfare &
Women Empowerment,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai - 600 009.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the District Collector to grant the petitioner appointment for the post of Noon Meal Organizer based on G.O.Ms.No.30, Social Welfare and Nutritious Meal (NMS4-2) Scheme Department, dated 17.06.2019, considering the petitioner's representation dated 03.05.2023.

For Petitioner : Mr.S.Tamilselvan



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For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader

ORDER

The petitioner's mother was appointed as a cook in the Elementary School in Palvarthuvendran Panchayat, in the year 2006. After she died on 08.08.2017, the petitioner was appointed as a cook on compassionate ground on 09.08.2021. By placing reliance on G.O.Ms.No.30, Social Welfare and Nutritious Meal (NMS4-2) Scheme Department, dated 17.06.2019, the petitioner claims that she would be entitled for being appointed as a Noon Meal Organizer in view of the said Government Order. Her representation, in this regard, was not considered, which had prompted her to file the present writ petition.

2. Learned counsel for petitioner submitted that in view of G.O.Ms.No.30 [supra], compassionate appointment requires to be given only to the post of Noon Meal Organizer. Therefore, the prayer sought for by the petitioner requires to be allowed.

3. *Per contra*, learned Special Government Pleader submitted that the



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petitioner's application was dated 09.10.2017. Since the Government Order in G.O.Ms.No.30 [supra] was passed only on 17.06.2019 i.e. after the application was filed, the petitioner cannot seek for the benefits of G.O.Ms.No.30 [supra].

4. A perusal of G.O.Ms.No.30 [supra] would clearly indicate that when compassionate appointment is made to the legal heirs of a female cook/cook assistant, the post to be allotted is only as a Noon Meal Organizer.

5. The only objection of the respondents is on the date of petitioner's application for compassionate appointment, G.O.Ms.No.30 [supra] was not in existence.

6. I am not in agreement with such submission. It is a settled proposition of law that the rules that would govern for consideration of an application of this nature, would be the regulations that are in existence on



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the date of consideration and not on the date of the application. When the petitioner's appointment was made only on 09.08.2021, the first respondent ought to have taken into consideration the rules and regulations governing her as on 09.08.2021 and cannot revert back to the date on which application is made. In that given circumstances, the ground raised by learned Special Government Pleader stands rejected. The petitioner herein, had made an application under the Right to Information Act seeking for the vacancies for the post of Noon Meal Organizer and the reply dated 25.09.2023 of the Public Information Officer attached to the first respondent, states that there are 53 vacancies in Polur taluk. If that be so, there cannot be any impediment for the first respondent herein to accommodate the petitioner in the post of Noon Meal Organizer in any of these vacancies.

7. Accordingly, a writ of mandamus is hereby issued to the first respondent to forthwith pass orders re-designating the post of the petitioner as a Noon Meal Organizer and post her in any of the vacancies in Polur



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Taluk, within a period of eight (8) weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs.

31.10.2023

Index : Yes
Speaking order: Yes
Neutral citation: Yes
gm

To

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M.S.RAMESH, J

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