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WP.No. 9444 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 9444 of 2016
and
W.M.P.No. 8403 of 2016

K. Pushpalatha

...Petitioner

Versus

1. The District Collector
Nagapattinam District.

2. The Commissioner of Panchayat Union
Nagapattinam.

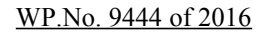
...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the appointment order in Na.Ka.No. 89/2016, dated 01.03.2016 issued by the first respondent and quash the same.

For Petitioner : Mr.A.S.Balaji
For Respondent-2 : Mrs.Meera Arumugam
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order in Na.Ka.No. 89/2016, dated 01.03.2016 passed by the first respondent.



<https://www.mhc.trgovt.in/judis>



WP.No. 9444 of 2016

Selection Process and the consequent appointment order dated 01.03.2016 passed by the 1st respondent, are under challenge for not following the procedures/norms. Therefore, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India for the relief stated above.

3. A Counter affidavit had been filed by the 2nd respondent stating that the Commissioner of Social Welfare, Chennai, had issued instructions for filling up vacancies in the post of Cook Assistant and also in the post of Cook in the Noon Meal Centres in Nagapattinam District, by way of promotion from the post of Cook Assistants who are eligible for such promotion and to fill up the remaining and consequential vacancies by direct recruitment, after due publication of a Notification. Thereafter, action was taken to fill up the vacancies in the post of Cook and eligible Cook Assistants who were promoted as Cook and action was also taken for filling up of the the vacancies in the post of consequential Cook Assistant. The Notification has also been published in the News Papers on 17.02.2016. It was also notified that the eligible persons should appear for personal interview on 25.02.2016. Further, 1312 applicants have attended the



WP.No. 9444 of 2016

personal interview and appointment order was issued only in respect of 340 persons on 01.03.2016 and in respect of 73 vacancies, and "no body" applied or even appeared for the interview for direct appointment to the above posts. It is however submitted that these 73 Cook Assistants in Nagapattinam District would be filled up after the General Elections are over. In fact, the petitioner has not even applied for the post of Cook Assistant and had also not appeared for the interview which was to be held on 25.02.2016.

4. The petitioner has not at all applied for the post of Cook Assistant and hence, the educational qualification of the petitioner has not been brought to the notice of the respondents. It is also stated that the instructions were issued on 02.01.2016 by the first respondent to fill up the vacancies in the post of Cook Assistants in the Noon Meal Centres in Nagapattinam District. Subsequently, the Commissioner of Social Welfare, Chennai, has issued further instructions to the effect that the post of Cook may be filled up by promotion from the post of Cook Assistants, who were working already and also to fill up the consequential vacancies of in the post of Cook Assistant, vide Letter No. 35237/NMP-1/ 2012, dated 12.01.2016 of the Commissioner of Social Welfare, Chennai, and further, also based on the



WP.No. 9444 of 2016

Government Letter No. 8687/NMP-2/2012-33, dated 11.01.2016. Hence, the previous date of interview had been revised as 25.02.2016 and notice has also been published in local dailies/newspapers on 17.02.2016.

5. It is further submitted that the appointment of Cook Assistant was made after wide publicity, which is evident from the fact that 1312 candidates had appeared for the interview held on 25.02.2016, and that it is not correct to say that there was lack of transparency in the procedures adopted by the respondents for selection to the post in question. It is also contended that there were 30 posts of Cook Assistants in respect of Nagapattinam Block, because two Cook Assistants had not taken up their job on promotion as Cook; the vacancies in the post of Cook Assistant had been reduced to 28, out of which, 24 posts have been filled up during the personal interview held on 25.02.2016 and that the existing vacancies which were remaining to be filled-up was only "4". The petitioner had not at all applied for the post, in question and had also not appeared for the interview.



WP.No. 9444 of 2016

6. It is also stated that the "communal rotation" as prescribed in the said Government Letter had also been adopted while making the appointment to the post of Cook Assistant.

7. The petitioner had made flimsy grounds in the affidavit filed in support of writ petition. The petitioner was not at all residing in Nagapattinam Town at the relevant point of time and that she had married 5 years ago and was also residing at Mangudi Village of Tiruvarur District.

8. As the petitioner has not at all applied for the post of Cook Assistant, and procedures having also been made, she cannot challenge the same, according to the guidelines prescribed by the Government. Hence, the respondents prayed to dismiss the above writ petition.

9. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.



WP.No. 9444 of 2016

10. On a perusal of the affidavit filed in support of this petition as well as the averments made in the counter affidavit, it reveals that the first respondent, by Notification dated 02.01.2016, had issued instructions to fill up the vacancies in the post of Cook Assistant in the Noon Meal Centres in Nagapattinam District. Subsequently, the Commissioner of Social Welfare, Chennai, has issued further instructions to the effect that the post of Cook may be filled up by promotion from the post of Cook Assistants who were already working and also to fill up the consequential vacancies in the post of Cook Assistants, vide Letter No. 35237/NMP.1/2012, dated 12.01.2016 of the Commissioner of Social Welfare, Chennai, based on the Government Letter No 8687/NMP.2/2012, dated 11.01.2016. While so, the previous date of interview had been revised on 25.02.2016 and notice has also been published in the local dailies/newspapers on 17.02.2016.

11. It is also seen that the appointment to the post of Cook Assistants was made after wide publicity. It is evident from the fact that the 1312 candidates have appeared for the interview held on 25.02.2016, but the petitioner had neither applied for the post in question, nor appeared for the interview conducted on 25.02.2016. All the applicants who have attended



WP.No. 9444 of 2016

the interview on 25.02.2016, had been considered fairly and appointments were made to the eligible persons. Inasmuch as the petitioner had not at all applied for the post in question and not even appeared for the interview. The question of giving individual opportunity to the petitioner does not arise.

12. However, the "communal rotation" prescribed in the Government Order had been adopted while making the appointment for the post of Cook Assistants and the contentions of the petitioner are flimsy and hence, they are hereby rejected. It is submitted that the relevant distance Rule had also been strictly adopted while making the appointment to the post of Cook Assistant. There is no violation of any condition as alleged by the petitioner.

13. It is submitted by the respondents that the petitioner is not at all residing in Nagapattinam Town and she is residing only at Mangudi Village of Tiruvaur District. While so, as the petitioner has not even applied at all for the post of Cook Assistant, the petitioner has no *locus-standi* to challenge the appointments made based on the guidelines prescribed by the Government.



WP.No. 9444 of 2016

14. There being no merits in the case of the petitioner to challenge the same, no interference is needed in the impugned order passed by the first respondent pertaining to the appointment order in Na.Ka.No. 89/2016, dated 01.03.2016. Hence, this Court is inclined to dismiss the above writ petition and the same is liable to be dismissed.

15. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13.03.2023

msm

Index by : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



WEB COPY



WP.No. 9444 of 2016

V.BHAVANI SUBBAROYAN, J.
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W.P.No. 9444 of 2016

13.03.2023