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W.P.No.22060 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR**

W.P.No.22060 of 2023

S.Sathyaseelan

.. Petitioner

Versus

1. The District Collector  
Perambalur District  
Perambalur

2.The Special Tahsildar  
Adi Dravidar Welfare  
Perambalur

3.The Government of Tamil Nadu  
Rep by its Secretary to Social Welfare Department  
Fort St.George, Chennai – 600 009

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the issue of impugned orders, issued by the 1<sup>st</sup> respondent namely Na.Ka.l.1/5805/2018 dated 28.03.2022 and proceedings No.Na.Ka.11/9466/2022 dated 31.10.2022 and quash the same and consequently to direct the respondents to treat the petitioner as continuing in service with effect from 31.03.2022 without any discontinuation of service pursuant to the impugned orders, with all attendance benefits viz., pay, service benefits etc., and to direct the respondents to pay him the salary for the period from 31.03.2022 to till the date of allowing him to join duty and arrears of pay thereof with 12% interest from the date of termination to till the date of payment and also to pay him adequate compensation as well as cost of litigation.



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For Petitioner : Mr.N.Subramaniyan

For Respondents : Mr.M.Alagu Goutham  
Government Advocate

**ORDER**

This writ petition has been filed challenging the orders of termination of the petitioner from service, who was appointed as cook by the 1<sup>st</sup> respondent/District Collector, Perambalur, mainly on the ground that he was found over-aged on the date of employment notification.

2. Pursuant to the selection and appointment made by the 1<sup>st</sup> respondent by his proceedings dated 20.10.2020, the petitioner was appointed as a Cook in the Government Adidraavidar Students Welfare Hostel, Melapuliyur, Perambalur District. While he was working so, the first respondent found that he was over-aged on the date of notification. Therefore, the 1<sup>st</sup> respondent by way of impugned proceedings terminated the service of the petitioner. Hence, this writ petition.

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

4. The services of the petitioner was terminated mainly on the ground



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of over age.

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5. A careful perusal of the available records would go on to show that the petitioner was aged 36 years on the date of employment notification. The 1<sup>st</sup> respondent had proceeded to pass impugned order of termination holding that petitioner was 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 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*



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*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 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*



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

7. The learned Government Advocate, conceded to the factual position that the petitioner was within the age limit as on the date of employment notification and he had not crossed 40 years of age. Therefore, the termination of the petitioner on the ground that he was found over-aged



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cannot be sustained in the eye of law.

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8. For the discussion made above, this writ petition stands allowed.

The impugned order of termination dated 31.10.2022 is set aside. The 1<sup>st</sup> respondent is directed to reinstate the petitioner 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 petitioner. No costs. Consequently, connected WMPs are closed.

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Internet: Yes/No

Neutral Citation: Yes/No

To

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3. The Secretary to Social Welfare Department  
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**N.SATHISH KUMAR, J.**

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