



W.P.No.31959 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.31959 of 2023

S.Kokila

...Petitioner

-Vs-

1. The District Collector,
Tiruvannamalai District.

2. Chetpet Panchayat Union,
Rep by its Commissioner,
Chetpet, Polur Taluk,
Tiruvannamali District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka.No.572005/2023/sa-u-thi-1 dated 21.03.2023, on the file of the 1st respondent, quash the same and consequently directing the respondents to consider the petitioner for appointment as Noon Meal Organiser in any one of the vacancies in Thiruvannamalai District as per direction given by this Court in W.P.No.20086 of 2014 dated 18.12.2020 by considering the representation dated 02.11.2022.



W.P.No.31959 of 2023

For Petitioner : Mr.M.Sasikumar

For Respondents : Mrs.V.Yamuna Devi
Spl.Government Pleader
For R.1
Mr.T.Sampathkumar
Government Advocate

ORDER

Heard Mr.M.Sasikumar, learned counsel for the petitioner and Mrs.V.Yamuna Devi, learned Special Government Pleader for the first respondent and Mr.T.Sampathkumar, learned Government Advocate for the second respondent.

2. The petitioner herein had participated in the selection process for appointment to the post of Noon Meal Organiser in the second respondent Panchayat Union. Pursuant to an oral interview conducted on 18.07.2012 and after verification of all the certificates and other testimonials of the petitioner, the first respondent herein had appointed the petitioner to post of Noon Meal Organiser at Panchayat Union Elementary School, Kizhakmedu, Chetpet Panchayat Union through order dated 06.08.2012.



W.P.No.31959 of 2023

3. The petitioner also claims to have joined the school on 07.08.2012 and on the next day i.e., on 08.08.2012 the petitioner was orally terminated without any notice, In this regard, when the petitioner had given a representation on 15.09.2012, seeking for continuing her employment, the representation was not considered in time, which prompted her to file a writ petition in W.P.No.34613 of 2013 and through an order dated 19.12.2013, her representation was directed to be considered in accordance with law. Accordingly, the petitioner's representation was rejected on 19.04.2014 which was also challenged by the petitioner in W.P.No.20086 of 2014 and by order dated 18.12.2020, the petitioner's submission that when she applies for future vacancy, her candidature may be considered on priority basis, was recorded and the writ petition was disposed of.

4. When vacancy arose for the post of Noon Meal Organiser in Gengaisoodamani, Modaiyur and Narasinghapuram in Chetpet Pachayat Union, the petitioner made a representation on 12.01.2023, seeking for appointment to the said post on priority basis. However, the same was rejected through the impugned order dated 21.03.2023 only on the ground that the petitioner's husband is a permanent driver in the second respondent panchayat union and therefore, she is



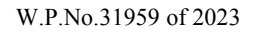
W.P.No.31959 of 2023

ineligible. Challenging the said order, the present writ petition has been filed.

WEB COPY

5. It is not in dispute that the petitioner was originally appointed on 07.08.2012 in a regular selection process after interview and verification of her educational testimonials and other relevant documents. When her appointment was cancelled she had chosen to challenge the same before this Court and by order dated 18.12.2020 in W.P.No.20086 of 2014, her candidature was directed to be considered by the respondents in the future vacancy on priority basis. In this background, she made an application on 12.01.2023 for consideration of her candidature for appointment in one of the places of Gengaisoodamani, Modaiyur and Narasinghapuram in Chetpet Pachayat Union and her application was rejected solely on the ground that her husband is a permanent driver in the second respondent panchayat union and therefore she is ineligible for consideration.

6. When this Court had specifically directed both the learned Special Government Pleader as well as the learned Government Advocate to produce any regulation or order or circular, which places an embargo for a candidature to seek for employment to the post of Noon Meal Organiser when his/her spouse is



employed in the same Panchayat Union, they were unable to produce such an order.

7. Apparently, there are no such orders which places an embargo for a spouse of a regular employee to seek employment for the post of Noon Meal Organiser. Even assuming that such regulation exists, the same would be unconstitutional in view of the guarantee in public employment provided under the Constitution of India.

8. When there are no regulations which places an embargo for a spouse of an employed person to seek for appointment, the reasoning adopted by the respondents in the impugned order cannot be sustained. The respondents have also not disputed the fact that when they had passed the impugned order, the vacancies pointed out by the petitioner herein, were in existence. As such, this Court is of the view that the respondents can be directed to issue necessary appointment order to the petitioner herein for the post of Noon Meal Organiser under the second respondent Panchayat Union.



W.P.No.31959 of 2023

9. In the result, the impugned order dated 21.03.2023 passed by the first respondent is hereby quashed. Consequently, there shall be a direction to the respondents herein to pass appropriate orders, appointing the petitioner to the post of Noon Meal Organiser in any of the Schools under the second respondent Panchayat Union together with necessary posting orders within a period four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs.

21.11.2023

Index:Yes/No
Internet:Yes/No
sr



W.P.No.31959 of 2023

WEB COPY

- To
1. The District Collector,
Tiruvannamalai District.
 2. Chetpet Panchayat Union,
Rep by its Commissioner,
Chetpet, Polur Taluk,
Tiruvannamali District



WEB COPY



W.P.No.31959 of 2023

M.S.RAMESH,J.,

SR

W.P.No.31959 of 2023

21.11.2023