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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.751 of 2013
and
M.P.(MD)No.2 of 2013

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Project Officer,
Sivagangai District,
Sivagangai.
- 3.The Project Officer,
District Integrated Child
Development Project,
Ilayangudi,
Sivagangai District.

...Appellants

/Vs./

C.Indira

...Respondent

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 17.10.2012 made in W.P.(MD)No.9391 of 2012 on the file of this Court.

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For Appellants : Mr.K.S.Selvaganesan
Additional Government Pleader
For Respondent : Mr.S.Bharathy Kannan

JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.**)

The State is in appeal against the order passed by the writ Court on 17.10.2012 allowing the writ petition filed by the writ petitioner rejecting her candidature for appointment as Noon Meal Organizer in Ayyampatti Noonmeal Centre, Sivagangai.

2.To be noted that the petitioner had responded to call for applications and participated in the interview for the aforesaid post. On account of the inaction by the State in appointing her, she had sought issuance of mandamus to the authorities and that writ petition had been disposed on 12.10.2011 directing that an order be passed considering her application.



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3. An order was passed on 22.12.2011 rejecting her application that was impugned in the Writ Petition. Pending appeal the State obtained interim stay and the post aspired to by the writ petitioner has been filled in 2019. The reason for rejection is that the petitioner belongs to the *Schedule Caste* category, whereas the post in question is reserved for *Backward Class other than Muslim* category.

4. We had sought a clarification as to proceedings under which the communal roster was being applied to appointments in noonmeal centers and a compilation of documents has been filed by the learned Government Pleader. They rely on Government Letter No.10625/SW department-2/2010, dated 23.07.2010 providing a clarification to the effect that all posts of Noon Meal Organizers where interviews were conducted prior to 19.04.2010, would be subject to the 200 point roster set-out in G.O.(Ms).No.65, Personnel and Administrative Reforms (K) Department, dated 27.05.2009.



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5.It is based on this clarification that the candidature of the writ petitioner was rejected. The question that would arise for consideration is as to whether Clarification dated 21.07.2010 can be applied retrospectively and whether the fixation of the critical date as 19.04.2010 to cover even instances wherein interviews were conducted, was acceptable. We believe not, and are of considered and categorical view that the clarification would be operative prospectively, and in respect of those vacancies where call for applications are made subsequent to that date, i.e., 21.07.2010.

6.This is specifically for the reason that the notification calling for applications should itself, stipulate the category of reservation of applicable to the specific noonmeal center in order to be complete. In fine, we hold that Clarification dated 21.07.2010 must be read prospectively to apply to Notifications calling for vacancies that arise on and from that date only. This Writ Appeal is dismissed.



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7. However, pending Writ Appeal, the post of noonmeal organizer in Ayyampatti Village has been filled in by a qualified candidate, who has been holding the post from 2019 onwards. That candidate is not a party to these proceedings as her appointment was made pending writ appeal. Hence and at this distance of time, we do not wish to disturb the present arrangement. Hence, though the Writ Appeal of the State has been dismissed, the Writ Petitioner is not entitled to the benefit of that post, but an alternate one.

8. Learned Additional Government Pleader, on instructions, states that there are vacancies for the post of Scheduled Caste candidate in some noonmeal centers. Hence, the writ petitioner may approach the District Collector, Sivagangai District/first respondent with a suitable representation seeking appointment, upon receipt of which, a suitable position will be identified and the petitioner will be appointed to the same, if she is otherwise qualified.

9. The petitioner is as on date 41 years old, which falls beyond



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the age limit stipulated for the post. In light of the discussion above, it is only appropriate that a relaxation is relaxation extended by the State in this regard, only. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]
01.08.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.751 of 2013

Dated:
01.08.2023