



W.P.(MD)No.2105 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2105 of 2023

and

W.M.P(MD)No.1878 of 2023

B.Saradha

... Petitioner

Vs.

1.The Principal Secretary to Government

BC, MBC and Minorities Welfare Department,

Secretariat,

Chennai - 600 009.

2.The Commissioner,

Commissioner of Backward Classes Welfare,

Ezhilagam,

Chepauk,

Chennai - 600 005.



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3.The District Backward Class and Minority Welfare Officer,
Collectorate Complex,
Sivagangai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the third respondent i.e., the District Backward Class and Minority Welfare Officer, Sivagangai, in his Memo No.R.C.Y4/14931/2022 dated 15.11.2022 and quash the same and consequently direct all the respondents if they want to give further training according to the norms of the Institute of Hotel Management, Catering Technology and Applied Nutrition, Chennai, then they may give further training departmentally or depute for further training in a competent institution instead of taking disciplinary action since the petitioner was already selected, appointed and services regularized and also considering that the petitioner is a Destitute Widow and belongs to Scheduled Caste.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.P.Maharajan

Special Government Pleader



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ORDER

This writ petition has been filed to call for the records of the third respondent i.e., the District Backward Class and Minority Welfare Officer, Sivagangai, in his Memo No.R.C.Y4/14931/2022 dated 15.11.2022 and quash the same and consequently direct all the respondents if they want to give further training according to the norms of the Institute of Hotel Management, Catering Technology and Applied Nutrition, Chennai, then they may give further training departmentally or depute for further training in a competent institution instead of taking disciplinary action since the petitioner was already selected, appointed and services regularized and also considering that the petitioner is a Destitute Widow and belongs to Scheduled Caste.

2. The learned counsel appearing for the petitioner submitted that the petitioner had participated in the selection process for the post of Cook in the hostels conducted by the Tamil Nadu Backward Class and Minority Welfare Department. The petitioner applied for the same and the Selection Committee conducted an interview on 11.02.2020 and 12.02.2020 and she



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was selected under serial No.351 under the Scheduled Caste and destitute widow quota and thereafter, the petitioner's probation was declared successfully. After declaration of the probation, the present impugned charge memo was issued on the ground that the Institute of Hotel Management, Catering Technology and Applied Nutrition at Chennai on 26.03.2022 conducted a physical training on 26.03.2022, however, the petitioner secured 14 marks out of 50 marks and failed in the test, thereby, the present charge memo was issued. Challenging the same the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that earlier the petitioner was selected and appointed to the post of Cook, after due verification and thereafter, Institute of Hotel Management conducted a training, in which, the petitioner secured lower marks, for which, the present charge memo was issued, is not sustainable one. Even if the petitioner not performed satisfactorily, they could have given further training to the petitioner to enable him to equip herself and without doing so, issuing a fresh charge memo is not sustainable one. Accordingly, he prayed for appropriate orders.



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4. Heard the learned counsel on either side and perused the materials available on record.

5. The facts in the present case are not in dispute. Admittedly the petitioner was appointed as a Cook in the Tamil Nadu Backward Class and Minority Welfare Department, however, in view of the insufficient performance of the petitioner, the petitioner was awarded with 14 marks for which, the present charge-memo was issued. Already, umpteen number of categorical decisions, this Court and the Hon'ble Apex Court held the charge memo cannot be interfered with at its threshold. It is only a charge as against the petitioner.

6. In view of the above, this Court cannot be interfered with the charge-memo. However, liberty is granted to the petitioner to canvas all those issues at the time of enquiry and the disciplinary authority is directed to conclude the disciplinary proceedings within a period of three months from the date of receipt of a copy of this order.



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7. With the above observation and direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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- 2.The Commissioner,
Commissioner of Backward Classes Welfare,
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M.DHANDAPANI,J.

RM

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