



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

and

W.M.P.(MD)Nos.8499 of 2020, 2121 to 2123 & 20187 of 2019

W.P.(MD)No.9350 of 2020:

Marikannu

... Petitioner

Vs.

1.The District Project Officer,
Integrated Child Development Services Scheme,
Trichy District,
Trichy.

2.The Project Officer
Child Development Scheme,
Marungapuri Union,
M.Kallupatti,
Trichy District.

3.S.Kavitha

... Respondents

*(R.3 is impleaded vide order of this Court, dated 09.01.2023
passed in W.M.P.(MD) No.9202 of 2020 in W.P.(MD)
No.9350 of 2020)*



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

WEB COPY

PRAYER in W.P.(MD)No.9350 of 2020 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent vide his proceedings in Se.Mu.Na.Ka.No.525/A1/2019 dated 17.07.2020 and quash the same as illegal and consequently directing the respondents to reinstate the petitioner in service.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.S.P.Maharajan - for R1 & R2
Special Government Pleader

Mr.A.Saravanan - for R3

W.P.(MD)No.2790 of 2019:

S.Kavitha

Vs.

... Petitioner

1.The State of Tamil Nadu

Rep. by its Principal Secretary to Government,
Social Welfare and Nutritious Meal Programme Department,
Fort St. George,
Secretariat,
Chennai.



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

WEB COPY

2.The Director Cum Mission Director,
Integrated Child Development Services Scheme,
No.1- Pammal Nallathambi Street,
Taramani,
Chennai - 600 113.

3.The District Collector,
Tiruchirappalli District,
Tiruchirappalli .

4.The District Project Officer Cum
Selection Committee For Appointment of
Main Anganwadi Worker,
Tiruchirappalli District.

5.The Child Development Project Officer,
Marungapuri Region,
Tiruchirappalli District.

6.Marikannu

... Respondents

PRAYER in W.P.(MD) No.2790 of 2019 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned proceedings issued by the fourth respondent Se.Mu.Na.Ka.No. 1270-2/A1/2017 dated 05.01.2019 and quash the same and consequently



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

direct the Respondents 3 to 5 herein to pass appropriate orders with effect of appointing the Petitioner as Anganwadi Assistant in the K.Ponnampatti Anganwadi Center, Marungapuri Region, Tiruchirapalli District.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.S.P.Maharajan - for R1 to R5
Special Government Pleader

Mr.T.Vadivelan - for R6

COMMON ORDER

Since the issue arises in both the writ petitions are one and the same, these writ petitions are heard together and disposed of by this common order.

2. The case of the petitioner in W.P.(MD) No.9350 of 2020 is that the petitioner belongs to Scheduled Caste Community. The first respondent had called for applications from eligible candidates for the post of Anganvadi Assistant in various vacant places within the second respondent's



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

jurisdiction. The petitioner is having all the eligible criteria required by the second respondent as per the notification and hence, she applied for the post of Anganvadi Assistant. The second respondent issued an appointment order in favour of the petitioner vide proceedings, dated 05.01.2019 appointing her at K.Ponnampatti Anganvadi Center, Marungapuri Union, since that is the only vacant place in the Union allotted for Scheduled Caste Community category, out of 20 vacancies in the Union. The people of K.Ponnampatti village raised agitation against the appointment of the petitioner to serve in the Anganvadi by citing the caste, since all the village people belonged to other communities. Hence, the second respondent passed an order of transfer, transferring the petitioner from K.Ponnampatti Anganvadi to Kovilpatti Anganvadi Centre vide proceedings, dated 05.07.2019. The said Kovilpatti Anganvadi Centre is situated within 6 Kms., from her native village. While so, the first respondent-District Project Officer, without having any authority, cancelled the petitioner's appointment on 17.07.2020 on the ground that the petitioner has produced a false information regarding the distance from her residence to the working place and that the petitioner is not a resident of the same hamlet and the said appointment is contrary to



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

clause 3.8 of G.O(Ms).No.110, dated 14.05.2012. Challenging the said cancellation of appointment, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that admittedly, the petitioner is not a resident of K.Ponnampatti Village and she is a resident of Thenur nearby Kovilpatti Village. However, the petitioner got rental agreement with the same village and she is a resident of the said village and the residential proof was also placed before the authority and even then, the first respondent passed the impugned order, which is not sustainable one and further, as per Article 16(2) of the Constitution of India, no citizen can be denied the equality of opportunity in employment on the ground of residence alone. Hence, the present impugned order is liable to be quashed. Accordingly, he prayed for allowing the writ petition.

4. The case of the petitioner in W.P.(MD) No.2790 of 2019 is that she is a resident of K. Ponnampatti Village and she participated in the selection process along with the petitioner in W.P.(MD) No.9350 of 2020.



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

WEB COPY

5. For the sake of convenience, the petitioner in W.P.(MD) No.9350 of 2020 is referred to as the petitioner and the petitioner in W.P. (MD) No.2790 of 2019 is referred to as the third respondent.

6. The case of the third respondent is that the petitioner, by producing false information, obtained employment, as if she is the resident of K.Ponnampatti Village and subsequently, on verification, it is found that the petitioner is not a resident of said village and accordingly, the said impugned order is passed and as per G.O.(Ms)No.110, dated 14.05.2012, the resident of the same hamlet alone, is eligible for employment as Anganwadi Worker. If no eligible candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same Panchayat of the particular Centre shall be considered for appointment to the post of Anganwadi Worker.

7. In the present case, there are 11 persons participated in the selection process for Anganwadi Assistant in the same village, however, ignoring all the 11 persons, appointment of the petitioner is not sustainable



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

WEB COPY

one. Accordingly, he prayed for dismissal of the writ petition. The third respondent is an eligible person and hence, she is entitled for appointment to the post of Anganwadi worker.

8. The learned Special Government Pleader appearing for the respondents 1 & 2 in W.P.(MD) No.9350 of 2020 submitted that one Kavitha/third respondent, who was also a candidate, lodged a complaint before the District Collector, Trichy, during the Grievance Day on 04.02.2019 stating that the petitioner has given false information and that her residence is located at a distance of 35 kms. The second respondent conducted field inspection and reported that the place where the petitioner is residing, namely, Thenur is located at a distance of 35 kms. Hence, a show-cause notice was issued and caused service on the petitioner on 08.02.2020. During enquiry, the petitioner has stated that she was residing at Seethapatti Village along with her husband in a rental house and hence, she has given the distance as 3 kms. So far, she did not give any proof for the residence at Seethapatti. G.O.(Ms)No.110 Social Welfare and Noon Meal Programme Department, dated 14.05.2012, clearly stipulates that the candidate should



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

reside within a distance of 10 kms. from the Centre and the petitioner herein had suppressed the fact and gave a false report as though she is residing within 3 kms. distance from the Centre. Hence, for filing a false report, her appointment was cancelled vide order dated 17.07.2020, which is perfectly legal and in accordance with law. Hence, he prayed for dismissal of the writ petition.

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

10. Admittedly, the petitioner was appointed as Anganwadi Assistant in K.Ponnampatti Village and thereafter, she was transferred to Kovilpatti Village. However, the claim of the third respondent is that the 11 persons including him had participated in the very same selection process for the post of Anganwadi Assistant in Kovilpatti Village, appointing the petitioner by ignoring resident from the same village is non-est in law.



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

WEB COPY

11. Further fixing the eligibility criteria for residents of the same village is for the purpose of the students studying in the Anganwadi centre. If the Anganwadi employee is in the same village, she may reach the centre within a reasonable time, which enable them to prepare the food to the children. For that purpose, the eligibility criteria was fixed for the Anganwadi Worker in the same village. Since the petitioner is not the resident of the same village, the appointment of the petitioner, is not sustainable one.

12. For better appreciation, the relevant portion of the G.O. (Ms)No.110, dated 14.05.2012, is as follows :

“3.8 Residency

The Government direct that the applicant should be the resident of the same hamlet. If no eligible candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, the eligible candidates are not available, the candidates from the neighbouring panchayats located within 10 Kms. shall be

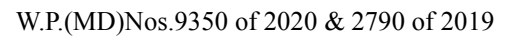


W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

considered for the appointment of Mini Anganwadi Worker.

In respect of Anganwadi Centres in the Municipality/Corporation area, the applicant residing in the same ward shall be considered. If no eligible candidate from the same ward is available, the candidates from the nearby ward shall be considered. Even then the eligible candidates are not available, candidates from the Division shall be considered for appointment of Mini Anganwadi Worker.”

13. A perusal of the above said clause makes it clear that the resident of the same village alone is entitled for appointment to the post of Anganwadi Worker. However, it is also an admitted fact that the petitioner is not a resident of K.Ponnampatti Village. Though she claimed that she obtained rental agreement to prove that she is the resident of the said village for the purpose of employment, the petitioner is not a native of K.Ponnampatti Village, which is not sustainable one. Hence, the impugned order is perfectly in order and the same cannot be interfered with.



(i) W.P.(MD) No.9350 of 2020 is dismissed. No costs.

(ii) W.P.(MD) No.2790 of 2019 is disposed of with liberty to the competent authority, namely, the first respondent, to issue appointment to the eligible persons in terms of G.O.(Ms)No.110, dated 14.05.2012.

09.01.2023

Page 12 of 14



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

To
WEB COPY

- 1.The State of Tamilnadu
The Principal Secretary to Government,
School of Education Department,
Chennai - 600 009.
- 2.The Director of School Education,
DPI Complex,
Nungampakkam,
Chennai - 600 006.
- 3.The District Project Coordinator / Chief Educational Officer,
Sivagangai District,
Sivagangai.
- 4.The District Collector,
Sivagangai District,
Sivagangai.
- 5.The Head Master,
UT/RMSA Model School,
S.Pudur,
Sivagangai.



WEB COPY



W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

M.DHANDAPANI,J.

RM

W.P.(MD)Nos.9350 of 2020 & 2790 of 2019

(2/2)

09.01.2023