



W.P.(MD)No.4939 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4939 of 2018

and

W.M.P(MD)Nos.4916 and 12318 of 2018

A.Anbu

... Petitioner

Vs.

**1.The Commissioner,
Most Backward Classes and De-notified Communities,
Chepauk, Chennai – 600 005.**

**2.The Joint Director,
Kallar Reclamation,
Madurai – 20.**

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the second respondent pertaining to the show cause notice in Na.Ka.No.H10/26517/2008 dated 28.12.2017 and quash the same.

For Petitioner

: Mr.R.Gowrishankar

For Respondents

**: Mr.C.Satheesh,
Government Advocate**



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ORDER

This writ petition has been filed to quash the impugned show-cause notice issued by the second respondent in Na.Ka.No.H10/26517/2008, dated 28.12.2017.

2. The case of the petitioner is that he was appointed as a Cook through Employment Exchange on 16.02.1998, on consolidate pay. Thereafter, the petitioner was brought under regular time scale of pay in the year 2007. Since the petitioner's service was not regularized, the petitioner and other similarly placed persons filed a writ petition in W.P(MD)No.22731 of 2015 seeking regularization of service and other service benefits, in which, this Court vide order dated 17.12.2015, directed the respondents to consider the representation of the petitioner within a period of twelve weeks. As the said order was not complied with, the petitioner filed a contempt petition in Cont.P(MD)No.683 of 2016. Thereafter, the second respondent came forward to regularize the service of the petitioner vide proceedings, dated 13.06.2016, subject to the condition that if the educational certificate produced by the petitioner



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is proved to be bogus, the petitioner will be terminated from service without further intimation. Pursuant to which, the petitioner was directed to produce the educational certificates. As the petitioner lost the educational certificate, I approached the Headmaster, Thirupparankundram Panchayat Union Middle School and requested to produce the certificate, who in turn, informed that the certificate produced before the employment exchange for registration is bogus one and the petitioner has not studied in the school up to 8th standard as claimed. Pursuant to the report of the Headmaster, dated 26.10.2017, the second respondent has initiated disciplinary proceedings by issuing the impugned show-cause notice. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that as per G.O.Ms.No.106, Social Welfare Department, 17.01.1986, the educational qualification prescribed for the post of Cook is 'ability to read and write Tamil' and there is no minimum educational qualification prescribed in the said G.O. However, contrary to the same, the action of



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the second respondent in directing the petitioner to produce the educational certificate is not sustainable one and the impugned show-cause notice is issued in order to wreak vengeance against the petitioner, who filed a writ petition along with similarly placed persons, for regularisation of service and thereafter, filed a contempt petition for compliance of the order passed by this Court and therefore, the impugned show-cause notice is liable to be set aside and hence, prayed for allowing of this writ petition.

4. The learned Government Advocate appearing for the respondents would submit that the petitioner has registered his name in the employment exchange by producing certificate as if he had studied up to 8th standard at Panchayat Union Middle School, Nagamalaipudukkottai, Madurai District. Thereafter, by virtue of the proceedings of the second respondent, dated 16.02.1998, the petitioner was appointed as a Cook on consolidated pay. Thereafter, the petitioner was brought into time scale of pay with effect from 23.07.2007. Subsequently, vide proceedings of the second respondent, dated



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13.06.2016, the service of the petitioner was regularized on condition to produce the educational certificates. Thereafter, in spite of several reminders, the petitioner failed to produce the same. Finally, the petitioner produced the educational certificates after a warning that his salary will be withheld. Thereafter, the second respondent sent the educational certificates produced by the petitioner to the Headmaster of Panchayat Union Primary School, Nagamalaipudukkottai, to find out the genuineness of the said certificates, who in turn, sent a report dated 26.10.2017, stating that the petitioner produced bogus certificate and the said school never issued the disputed educational certificate to the petitioner. Pursuant to the said report, the second respondent issued the impugned show-cause notice. He would further submit that the petitioner enrolled his name in the District Employment Exchange by producing bogus educational certificate as if he has studied upto 8th standard and got the job of Cook by virtue of the seniority in the employment exchange and hence, there is no illegality or irregularity in the show-cause notice issued by the second respondent and hence, prayed for dismissal of this writ petition.



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5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents and perused the materials placed before this Court.

6. Admittedly, the petitioner entered in service as a Cook. As per G.O.Ms.No.106, Social Welfare Department, 17.01.1986, for the post of Cook, the required qualification is, 'ability to read and write in Tamil'. Pursuant to which, without obtaining educational certificates from the petitioner, the second respondent appointed him as a Cook and thereafter, the petitioner was brought under regular time scale of pay. Subsequently, pursuant to the order passed by this Court in W.P(MD)No.22731 of 2015, the services were regularized. At the time of regularization, the second respondent insisted the petitioner to produce the Educational Certificates. Admittedly, at the time of appointment, the second respondent did not insist the petitioner to produce the educational certificates. Since the basic requirement for the Post of Cook is, 'ability to read and write in Tamil' and that was satisfied by the petitioner at the time of appointment and the petitioner was not required any minimum



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educational qualification, the impugned show-cause notice issued by the second respondent, is misconceived and the same is against G.O.Ms.No. 106, Social Welfare Department, 17.01.1986 and therefore, the impugned show-cause notice is deserves to be set aside.

7. Accordingly, this writ petition is allowed and the impugned show-cause notice issued by the second respondent, dated 28.12.2017, is set aside. No Costs. Consequently, connected Miscellaneous Petitions are closed.

15.02.2023

pm
NCC:Yes/No
Index:Yes/No

To

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M.DHANDAPANI, J.

pm

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