



W.P(MD)No.23709 & 23717 to 23723 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.23709 & 23717 to 23723 of 2022

and

W.M.P.(MD)Nos.17793, 17796, 17801, 17799, 17797, 17798, 17800, 17788 ,
17789, 23296, 23292, 23283, 23306, 23270, 23305 & 23293 of 2022

and

W.M.P.(MD)No.140 of 2023

In W.P.(MD)No.23709 of 2022

C.Ashok Kumar

... Petitioner

Vs.

1.The Secretary to Government,
Adi Dravidar Welfare Department,
St.George Fort, Secretariat,
Chennai.

2.The Director,
District Adi Dravidar and Tribal Welfare Office,
Chepauk,
Chennai-600005.

3.The District Adi-Dravidar and Tribal Welfare Officer,
O/o. District Adi-Dravidar and
Tribal Welfare Office,
Tiruchirrapalli.

... Respondents



W.P(MD)No.23709 & 23717 to 23723 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of termination passed by the third respondent in Na.Ka.No.W4/12539/2022, dated 20.09.2022, quash the same as illegal and consequently, direct the respondents 1 to 3 to permit me to join duty as cook based on the order of appointment of the third respondent in Na.Ka.No.W4/19616/2020, dated 22.01.2021 by providing him all the attendant benefits attached with the petitioner's service.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the respondents.

2. The petitioners were appointed as cooks in the respondent department in the year 2021. After they had put in service for almost 20 months, they were ousted from service on the ground that they were overaged even at the time of submitting their applications.



W.P(MD)No.23709 & 23717 to 23723 of 2022

3. The learned counsel appearing for the petitioners reiterated all the contentions set out in the respective affidavit filed in support of these writ petitions.

4. The issue raised in these writ petitions had already been decided by me in favour of the candidates vide order dated 24.11.2022 in W.P.(MD)No.15743 of 2022 etc. batch. Paragraph Nos.9 & 10 of the said order read as follows:-

“9. The post of cook falls under Class 4 category 2 of Tamil Nadu Basic Service. As per Proviso 2 Rule 5 (i) of Tamil Nadu Basic Service, the age limit for candidates belonging to Scheduled Caste community would be 35 years of age on the date of appointment. Section 20(8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 reads as follows:

“**20.(8)** The maximum age limit prescribed in the special rules shall not apply—

(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Class or Denotified Communities or of destitute widows of all castes to a post included in a service for which the special rules prescribe a qualification lower than a degree of any University recognized by the University Grants Commission, if such candidate possesses a general educational qualification which is higher than that referred to in sub-section (1) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes and Denotified Communities or of destitute widows of all castes who holds a degree of any University recognized by the



W.P(MD)No.23709 & 23717 to 23723 of 2022

University Grants Commission, if the degree he holds is not lower than the degree prescribed in the special rules for appointment to such post and if he is otherwise qualified for appointment:

Provided that, for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes or in respect of destitute widows of all castes, who do not possess a general educational qualification, which is higher than the minimum general educational qualification:”

10. Proviso to Section 20(8)(2) gives further extension by five years for Scheduled Caste candidates who do not possess general education qualification that is higher than the minimum general education qualification. It is not in dispute that the minimum education qualification is pass in 10th Standard. The minimum qualification prescribed for the post of cook is only 10th Standard fail. Therefore, it is not higher than the minimum general education qualification. The petitioners herein are belonging to the Scheduled Caste community. Therefore, the age limit has to be increased by 5 more years. I have already noted that the maximum age limit prescribed in the Special Rules for general candidate is 30. The Special Rules themselves further enhance the limit by 5 years in favour of Schedule Caste candidates. The learned Additional Advocate General would state that since Scheduled Caste candidates have already been given increase by 5 years in Special Rules, they cannot once again claim under Section 20(8) of 2016 Act. In my view, the beneficial provision meant for the benefit of Scheduled Caste candidates should not be given restrictive interpretation. Under the Special Rules, the maximum age prescribed for Scheduled Caste candidates will be 35 years. By applying the aforesaid proviso, I hold that the age limit prescribed for the petitioners will be 40.”



W.P(MD)No.23709 & 23717 to 23723 of 2022

5. All the petitioners herein were aged below 40 years when they submitted their applications. The case on hand is squarely covered by the aforesaid order. At this stage, the learned Additional Advocate General would submit that questioning the said order dated 24.11.2022 passed by me, the department has preferred the writ appeals.

6. I wanted to know if any interim order of stay has been obtained. It is stated that the writ appeals are still only at the SR stage. Thus, as on date, the order passed by this Court is holding the field.

7. In this view of the matter, the orders impugned in the writ petitions are set aside. The respondents are directed to reinstate the petitioners herein with continuity of service. Backwages shall also be paid to the petitioners herein. The respondents shall comply with the direction within a period of three weeks from the date of receipt of a copy of this order.

8. These Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.03.2023

Index : Yes / No
Internet : Yes/ No
rmi

NOTE:Issue Order Copy on 21.03.2022



W.P(MD)No.23709 & 23717 to 23723 of 2022

G.R.SWAMINATHAN, J.

WEB COPY

rmi

To

- 1.The Secretary to Government,
Adi Dravidar Welfare Department,
St.George Fort, Secretariat,
Chennai.
- 2.The Director,
District Adi Dravidar and Tribal Welfare Office,
Chepauk,
Chennai-600005.
- 3.The District Adi-Dravidar and Tribal Welfare Officer,
O/o. District Adi-Dravidar and
Tribal Welfare Office,
Tiruchirrapalli.

W.P(MD)Nos.23709 & 23717 to 23723 of 2022

15.03.2023