



W.P.(MD).No.22305 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.22305 of 2021

and

W.M.P(MD)Nos.18865,18867 of 2021 & 3421 of 2022

P.Parvathy

... Petitioner

Vs.

1.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai.

2.The District Collector,
Collectorate Campus,
Dindigul District,
Dindigul.

3.The Chairman,
O/o. The Panchayat Union Office,
Nilakottai,
Dindigul District.

4.The Commissioner,
O/o. The Panchayat Union Office,
Nilakottai,
Dindigul District.

... Respondents



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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 relating to the impugned notification published by the 2nd respondent in Dinamani Daily News Paper in his proceedings in ந.க.எண்.8394/2019/உள.வ.3, dated 02.12.2021 and quash the same as illegal and consequently to direct the 2nd respondent to appointment the petitioner as Office Assistant in terms of guildelines issued by the Secretary to Government, Rural Development Department in G.O.Ms.No.114, dated 06.05.2000 and consequentially to direct the 3rd respondent to appoint the petitioner as Office Assistant on the basis of selection made by the 3rd respondent within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R1 & R2 : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.P.Thambi Durai
Government Advocate

For R3 – R4 : Mr.E.Marees Kumar

ORDER

The present writ petition has been filed to seeking direction to call for the records relating to the impugned notification published by the 2nd respondent in Dinamani Daily News Paper in his proceedings in ந.க.எண்.8394/2019/உள.வ.3,



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dated 02.12.2021 and quash the same as illegal and consequently to direct the 2nd respondent to appointment the petitioner as Office Assistant in terms of guidelines issued by the Secretary to Government, Rural Development Department in G.O.Ms.No.114, dated 06.05.2000 and consequentially to direct the 3rd respondent to appoint the petitioner as Office Assistant on the basis of selection made by the 3rd respondent within the period that may be stipulated by this Court.

2. The petitioner belong to Scheduled Caste (Aaruthariyur) [hereinafter referred as SC(A)] community and she is a destitute widow. She has completed her Higher Secondary course during March 2007. Her husband died on 09.10.2017 and he was survived by the petitioner and her minor son. After the demise of her husband, the petitioner went for coolie work to maintain herself and her son and for her livelihood. During pandemic, she was subjected to ultimate penury because she struggled to get any work due to lockdown. While so, the 2nd respondent, vide proceedings, dated 18.12.2020 published a notification for the appointment to the post of Office Assistant in the 3rd respondent Panchayat Union and the same was published in Dina Thandhi daily newspaper on 23.12.2020 inviting applications from the eligible candidates and



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three posts were earmarked for the 3rd respondent Panchayat Union, out of which, one was reserved for SC(A) women (Destitute Widow). The petitioner being a women hailing from SC(A) community and being a destitute widow, applied for the said post by submitting necessary application on 07.01.2021. Acknowledging the same, a call letter was issued to her by the 3rd respondent calling upon the petitioner to appear for the interview scheduled to be held on 20.02.2021 at about 2.00 p.m at the office of the 3rd respondent Panchayat along with original certificates. The petitioner promptly participated in the interview with all necessary original certificates and her certificates were also duly verified by the appointing committee and she was orally informed by the authorities that her appointment order would be issued after getting consent from the 2nd respondent / District Collector. The petitioner was the only female candidate who attended the said interview under the communal roster of SC(A) women (destitute widow). While the petitioner was awaiting her appointment order with a fond hope of working in the 3rd respondent office, code of conduct was announced by the State Government due to announcement of election from 15.09.2021 to 18.10.2021. After completion of the elections, the petitioner preferred a detailed representation to the 3rd respondent on 18.05.2021 requesting to appoint her as Office Assistant. On receipt of the



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same, the 3rd respondent vide reply, dated 25.05.2021 intimated that the petitioner was selected for appointment to the post of Office Assistant and the proposal has already been forwarded to the 2nd respondent District Collector by the 3rd respondent for concurrence. It was further intimated that the appointment order should be issued only after obtaining concurrence from the 2nd respondent.

3. On the basis of the reply received from the 3rd respondent, the petitioner also preferred a representation to the 2nd respondent on 26.05.2021 requesting him to issue a concurrence on the proposal which was forwarded by the 3rd respondent for the petitioner's appointment as Office Assistant. Having received the same, the 2nd respondent did not act upon it and kept the petitioner's representation in abeyance. Hence, the petitioner filed a writ petition in W.P(MD)No.10258 of 2021 before this Court seeking to direct the 2nd respondent to grant consent for the appointment of the petitioner as Office Assistant in the 3rd respondent Panchayat. On 09.07.2021, this Court directed the 2nd respondent to consider the proposal sent by the 3rd respondent within a period of 3 weeks from the date of the receipt of a copy of the order in the said writ petition. On receipt of copy of the order passed by this Court, the petitioner



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further made a representation to the 2nd respondent requesting him to issue order of consent for the appointment of the petitioner as Office Assistant. On 03.12.2021, the 2nd respondent had published the impugned notification, dated 02.12.2021 in all the daily newspapers cancelling the earlier notification, dated 18.12.2021 by citing administrative reasons and informed that fresh notification would be issued separately. Challenging the same, this writ petition came to be filed.

4. The 2nd respondent has filed a counter and the learned Additional Advocate General submitted that the petitioner is not the only one candidate who attended the selection process in the District of Dindigul. The petitioner is one among the 7365 candidates for the whole District of Dindigul, for 21 posts of Office Assistant and 1103 candidates for Nilakottai Taluk, of which 3 vacancies were earmarked for the post of Office Assistants. Subsequently, after notifying the vacancies on 18.12.2020, interviews were held only in 3 Panchayat Unions, namely Nilakottai, Gujilamparai and Natham and in all the other remaining 11 Panchayat Unions, selection process was not conducted. The chairpersons of 11 Panchayat Unions, where the selection process was not conducted raised objection to the employment notification, dated 18.12.2020 as



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per Section 96 of the Tamil Nadu Panchayat Act, 1994 and pressed to withdraw the employment notification. That apart, even in the 3 blocks where interview were conducted including Nilakottai, where the petitioner was a candidate, the selection was not finalized as the model code of conduct was introduced. In addition to that, the list of candidates sponsored by the District Employment Exchange is valid only for 6 months. Due to complete lockdown and because of the notification of election, the said selection process was not completed within a period of 6 months. Hence, the said list has lapsed. Only because of these circumstances, the 2nd respondent was constrained to cancel the earlier notification, dated 18.12.2020. In view of the cancellation made by the 2nd respondent vide notification, dated 02.12.2021, fresh selection process has been commenced in all the other 13 Panchayat Unions of Dindigul District except Nilakottai Panchayat Union only because of the interim stay granted in this writ petition. Considering the fact that the list of candidates forwarded by the District Employment Exchange has already been lapsed and since it is necessary to call for fresh list of candidates, the relief sought for by the petitioner is not maintainable and insisted for dismissal of the writ petition.



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5. A perusal of the records would reveal that pursuant to the interview conducted by the selection committee consisting of the 3rd and 4th respondents and Vice Chairman of the Nilakottai Panchayat Union on 20.02.2021, the final list of selected candidates were shortlisted and the same was forwarded vide proposal, dated 20.02.2021 on the resolution passed by the Nilakottai Panchayat Union's ordinary meeting to the 2nd respondent for approval by the Block Development Officer of Nilakottai Panchayat Union. The petitioner was one among the selected candidates for the post of Office Assistant in the category of SC(A) women (destitute widow). On receipt of the said proposal, on 21.02.2021, the 2nd respondent sought for additional information with respect to the selected candidates which was also promptly and strictly submitted by the Block Development Officer on 20.02.2021. G.O.Ms.No.114 Rural Development E5 Department, dated 06.05.2000 in clause 2 (ஆ) has mandated that the District Collector on receipt of the proposal from the concerned Block Development Officer, should either approve or reject the proposal of the final selection list and in case of approval, appointment order should be issued within 3 days from the date of the said approval. However, in this case, even after the proposal was forwarded by the Block Development Officer, Nilakottai on 20.02.2021 and after receiving the same on 21.02.2021,



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the 2nd respondent has sought for clarification, which was also duly complied by Block Development Officer, Nilakottai on 22.02.2021 and was received by the 2nd respondent on the same day. However, as mandated by G.O.Ms.No.114 Rural Development E5 Department, dated 06.05.2000, the said proposal of appointment of the selected candidates was neither rejected nor approved by the 2nd respondent, but was kept in abeyance endlessly and it is in violation of principles of natural justice. But after a period of almost 10 months, the entire selection process came to be cancelled by the impugned notification of the 2nd respondent, dated 02.12.2021.

6. Justification canvassed by the learned Additional Advocate General for the said cancellation is as follows:

(i) The expiry of the validity of the list of candidates sponsored through the employment exchange within a period of 6 months.

(ii) The outbreak of Corona pandemic, as a result of which, the selection process could not be completed. In the newly formed districts as per the directions of the Hon'ble Supreme Court, the mode of conduct was announced between 15.09.2021 to 18.10.2021, due to announcement of elections.

(iii) Notification of election between the period and the announcement of lockdown till 28.10.2021.



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7. However, the learned counsel for the petitioner drew my attention to the clarification note, dated 19.04.2022 circulated by the Director of the Department of Rural Development to the District Collector of all the districts, except Chennai with respect to the appointment of Record Clerk, Office Assistant, Night Watchman and Driver, in which it has been clarified by the Directorate that for all those selection process, which has already been completed, it is a mandate of the competent authority to immediately approve the same in terms of the relevant rules and issue with appointment order. That apart, it was also clarified that the validity of the list of candidates sponsored through Employment Exchange was further extended from 6 months to 1 year in view of pandemic. It is further clarified that wherever the selection process is in the preliminary stage for more than 1 year, the selection process may be commenced by issuance of fresh notification, in the clarification, dated 19.04.2022. However, even before the clarification came to be circulated, the impugned notification of cancellation of the selection process which commenced on 18.12.2020 by Nilakottai Panchayat Union, came to be cancelled. As far as the case in hand, it deals with a candidate belonging to SC(A) women (destitute widow). No doubt, the Government of Tamil Nadu is



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rendering best of its governance for the cause of social justice and it is a Welfare State. In a State like Tamil Nadu, it is the bounden duty of the respondents to appreciate the plight of a candidate belonging to SC(A) women (destitute widow) category. Taking into consideration that the entire selection process has been over as early as on 20.02.2022 and the list of selected candidates were also shortlisted in the Union of Nilakottai and the proposal of appointment of the selected candidates was also duly forwarded to the District Collector by the BDO, in terms of the selection made by the duly constituted selection committee. I have no hesitation to observe that it is only the mistake of the 2nd respondent, who had kept the said proposal in abeyance without considering the same. The 2nd respondent ought to have approved or rejected the same within a period of 15 days. But the said exercise has not been done. No doubt, the selection process was not commenced at all in 11 Panchayat Unions of Dindigul District. However, as far as 3 Panchayat Unions including Nilakottai is concerned, the selection process was completed. It would be unjust on the part of the 2nd respondent to cancel the entire selection process having selected and shortlisted few candidates, especially in the case of Nilakottai Union is concerned. However, the learned Additional Advocate General submitted that the selection process which has been cancelled is not



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only pertaining to the Union of Nilakottai, but also the entire District of Dindigul and if the impugned notification is interfered, that would affect the selection process which has already been commenced and completed except Nilakottai, wherein the selection process is kept in abeyance in view of the interim order passed by this Court in this case.

8. In view of the same, this Court is inclined to quash the impugned order with respect to Nilakottai Union alone and thereby consequently, direct the respondents to finalise the selection process in terms of the proposal which was forwarded before the 2nd respondent as early as on 20.02.2021 and clarified further on 22.02.2021. The entire file is remanded back to the file of the 2nd respondent and the 2nd respondent is directed to approve the proposal within a period of four (4) weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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L.VICTORIA GOWRI, J.

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