



W.P.(MD).No.4887 of 2016

**THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 16.03.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD).No.4887 of 2016  
and  
W.M.P.(MD).No.4381 of 2016**

K.Kathija

... Petitioner

**Vs.**

1.The District Collector,  
Theni,  
Theni District.

2.The Personnel Assistant to the District Collector,  
Noon Meal Programme,  
Collector's Office,  
Theni,  
Theni District.

3.The Commissioner,  
Chinnamanoor Panchayat Union,  
Chinnamanoor,  
Theni,  
Theni District.

4.The Secretary,  
Gandhiji Elementary School,  
Eranampatty,  
Uthamapalayam Taluk,  
Theni District.

5.A.Mumtaj

... 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, calling for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.209/2016/R.D.11 dated 25.02.2016 insofar as appointment of the fifth respondent as Noon Meal Organizer is concerned and quash the same as illegal and consequentially to direct the first respondent to appoint the petitioner as Noon Meal Organizer in the fourth respondent school taking into account of the petitioner's educational and age and seniority and in the light of G.O.Ms.No.21 dated 16.03.2000 within the period that may be stipulated by this Court.

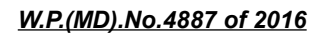
For Petitioner : Mr.Nawaz Khan,  
For M/s.Ajmal Associates.

For R-1 and R-2 : Mr.M.Ramesh,  
Government Advocate.

For R-3 : Mr.S.Sathish Kumar

### **ORDER**

This Writ Petition is filed challenging the appointment of the fifth respondent vide order dated 25.02.2016 and consequently direct the first respondent to appoint the petitioner as Noon Meal Organizer in the fourth respondent School as per seniority in the light G.O.Ms.No.21 dated 16.03.2000.



3. The respondents 1 to 3 have filed counter affidavit stating that the eligible candidates were called for based on G.O.Ms.No.163 Social Welfare and Noon Meal Programme Department dated 18.08.2000 and interview was held on 03.02.2016, wherein the petitioner and the fifth respondent participated in the recruitment process with other eligible candidates. The Selection



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Committee after scrutinizing the qualification, age, family status, community and performance and after applying the roaster system, has selected the fifth respondent and appointed her in the fourth respondent School on 25.02.2016. The fifth respondent was selected by the Selection Committee, based on the merit and ability. Moreover, the fifth respondent who is 36 years of age has completed 10<sup>th</sup> Standard and having two children. Therefore, the Selection committee has appointed the fifth respondent who is more meritorious and deserving candidate than the petitioner. The petitioner is working as Field Supervisor in MGNREGA scheme and she is likely to get the regular appointment. Therefore, the respondents did not consider the petitioner's case and the respondents prayed to reject the Writ Petition.

4. Heard Mr.Nawaz Khan, for M/s.Ajmal Associates, learned counsel for the petitioner, Mr.M.Ramesh, learned Government Advocate for the respondents 1 and 2 and Mr.S.Sathish Kumar, learned counsel for the respondent No.3 and perused the records.

5. The only contention that was raised by the petitioner is that the petitioner is on the verge of nearing 40 years. Based on her age and seniority, the petitioner should be considered and appointed in the said post. The fifth



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respondent is only 36 years and she is having more than five years of age to cross the upper age limit and she is having more opportunity than the petitioner.

The said contention of the petitioner cannot be accepted, since the prescription of age alone cannot be a criterion to grant appointment to any candidates. For zone of consideration only, the upper age is fixed. The recruitment process is based on merit and ability and also deserving candidate. Moreover, there are several procedures prescribed. The Selection Committee should be formed and all eligible candidates should be considered, thereafter based on merit and ability, the Selection Committee would select deserving candidate to appoint in the post of Noon Meal Organizer. The Selection Committee has considered the candidature of the petitioner as well as the fifth respondent and the Committee has come to the conclusion that the fifth respondent is more deserving candidate than the petitioner. The petitioner has not raised any acceptable ground and legally sustainable ground to interfere with the appointment of the fifth respondent. The only contention of the petitioner is that since the petitioner is on the verge of reaching the upper age limit and based on age, seniority, she should be granted an appointment. For this criterion, the candidature of the petitioner cannot be considered. Moreover, the fifth respondent is still serving in the said post for the past seven years.



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6. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**16.03.2023**

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

To

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**S.SRIMATHY, J.**

Nsr

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