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W.P.(MD).No.5209 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.5209 of 2016
and
W.M.P.(MD).No.4664 of 2016**

S.Suguna

... Petitioner

Vs.

1.The District Collector,
Collectorate Campus, Trichy.

2.The Block Development Officer and Commissioner,
Thathaiyankarpettai Panchayat Union,
Musiri Taluk,
Trichy District.

3.The Head Mistress,
Panchayat Union Primary School,
Mettupalayam,
Musiri Taluk,
Trichy 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 Certiorari, to call for the records relating to the impugned order of the first respondent dated 24.02.2016 in cancelling the order of appointment of the petitioner for the post of Noon Meal Organiser and quash the same.

For Petitioner : Mr.R.ThangaPandian

For Respondents : Mr.S.Kameswaran,
Government Advocate.

ORDER

This Writ Petition is filed challenging the impugned order of cancellation of appointment order dated 24.02.2016.

2. The petitioner belongs to Most Backward Class community. She had participated in the recruitment process for Noon Meal Organizer. The respondents have issued notice in Dinamalar Newspaper dated 22.01.2016. The petitioner submitted an application dated 25.01.2016 along with the necessary certificates. After verification of age, educational qualification, community and residence, the petitioner was called for an interview on



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10.02.2016. She attended the interview conducted on 10.02.2016 along with the original certificates for proof of age, educational qualification, community, income and nativity. After verification, the petitioner was appointed through first respondent proceedings in Na.Ka.No.R.C.N6/231/15 dated 22.02.2016 and the order was dispatched to the petitioner on 28.02.2016 and she received on 29.02.2016. The second respondent through proceedings Na.Ka.No.A6/2014/16 dated 29.02.2016 directed the petitioner to join duty within a period of one week. Immediately, on 29.02.2016 itself, the petitioner submitted joining report in the third respondent School and took charge of food articles and registers on 01.03.2016. The first respondent has passed the impugned order dated 24.02.2016, whereby, the petitioner's appointment order was cancelled and the reasons stated is that the petitioner has not submitted any proof for her appointment in the priority category. The contention of the petitioner is that the petitioner never ever claimed any priority quota such as widow, destitute widow or physically handicapped etc. The petitioner has only applied under General Category and submitted the original certificates. The respondents after verifying the age, qualification, residence and community have appointed the petitioner in the post of Noon Meal Organizer. The impugned order of cancellation of appointment was passed without hearing the petitioner. Hence,



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it is violative of principles of natural justice. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a counter stating that a vacancy at the third respondent School falls under General Priority Category. To fill up the post, the recruitment process was carried out and the petitioner was selected on adhoc basis and her selection is purely temporary basis. Since the petitioner did not produce the certificate for priority category, but had produced other certificates. The first respondent has issued the appointment order. Even in the order, it has been categorically stated that her selection is temporary basis and it would be cancelled if the petitioner fails to produce any necessary certificates. The petitioner was called to join duty within 7 days. The petitioner has not joined duty within 7 days and she has not produced the certificate under priority category. Hence, the petitioner's appointment was cancelled through order dated 24.02.2016. Even before the cancellation order was passed by the first respondent reaches the second respondent, the second respondent has issued an order appointing the petitioner at the third respondent School, based on the first respondent order dated 22.02.2016. Even in that order also, it has been stated if the petitioner commits any fraudulent act, her appointment order will be



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cancelled. According to G.O.Ms.No.163 dated 18.08.2010, the petitioner should be one among the category annexed in the Government Order. But the petitioner is not coming under any priority category mentioned in G.O.Ms.No. 163. Therefore, the petitioner cannot claim any right over the appointment. Hence, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.R.Thangapandian, learned counsel for the petitioner and Mr.S.Kameswaran, learned Government Advocate appearing for the respondents.

5. The contention of the respondents is that based on reservation the post ought to be filled from “General-Priority Category”. The respondents have called for eligible candidates through paper publication Notification dated 22.01.2016. The contention of the respondents is that the petitioner comes under priority category of Serial No.6, which means she is eligible for appointment under the priority category of land donation to the Government. But the contention of the petitioner is that she had never ever applied for the said category or under any of the priority category stated in G.O.Ms.No.163.



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She had participated in the recruitment process only based on the General Category without any priority.

6. The claim of the respondents is that the petitioner had not produced priority certificate. But the claim of the petitioner is that she had not claimed any priority at all. If the argument of the respondents ought to be accepted, then the respondents would not have called the petitioner for interview, when the petitioner had not produced the priority certificate at the time of certificate verification. Therefore, the claim of the respondents is that the petitioner had not produced the priority certificate and hence the appointment was cancelled cannot be accepted at all.

7. The respondents have issued the appointment order and even in the appointment order, the respondents have not stated that the petitioner's appointment will be cancelled if she has not produced the certificate of priority category. However, the respondents relied on the general condition that if any certificate is not produced, the appointment will be cancelled. Such an argument of the respondents cannot be accepted at all. If the argument ought to



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be accepted, then the respondents would have granted time to produce, until then the respondents would not have issued the appointment order. Having issued the appointment order without any condition, the respondents cannot suddenly cancel the appointment order. Therefore this Court is of the considered opinion that the claim of the petitioner ought to be accepted and the impugned order cancelling the appointment order is quashed.

8. The respondents have clearly misunderstood that the petitioner belongs to priority category and demanding priority certificate. When the petitioner has not claimed any priority at all, then the respondents cannot demand any priority certificate.

9. The petitioner has worked only for 7 days. Therefore, the petitioner is not entitled to any backwages. The respondents are directed to allow the petitioner to join the post within a period of one (1) week from the date of receipt of a copy of this order. From the date of joining within one week, the petitioner is entitled to all service benefits and monetary benefits.



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10. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

To

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S.SRIMATHY, J.

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