



W.P(MD)No.25306 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25306 of 2022

and

W.M.P.(MD)No.23294 of 2022

Mahadevi

... 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,
Tiruchirappalli.

... Respondents

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



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as Cook based on the order of appointment of the third respondent in Na.Ka.No.104/19616/2020, dated 22.01.2021 by providing the petitioner all the attendant benefits attached with my service.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner belongs to SC community. She was appointed as Cook vide order dated 22.01.2021 by the third respondent. It was later alleged that recruitment process was vitiated by irregularities. Hence, the impugned order dated 20.09.2022 came to be issued terminating the petitioner from service. The only ground set out in the impugned order is that the petitioner was overaged when she was appointed. According to the respondents, the maximum age limit for SC candidates is 35 years. The respondents in the impugned order have stated that the petitioner was aged 35 years 3 months 16 days on the date of recruitment notification.

3. The issue raised in the writ petition has already been decided by me vide order dated 24.11.2022 in W.P.(MD)Nos.15743 of 2022 etc., batch. I had



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held in the said order as follows:-

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“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 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.”



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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.”

3. Considering the community background of the petitioner, I hold that she is not overaged on the date of notification. Therefore, the reason set out in the impugned order is not sustainable. The impugned termination order is set aside.

4. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.03.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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