



W.P.No.4069 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4069 of 2021

and W.M.P.Nos.4641, 4642 & 4643 of 2021

E.Kalayarasan

...Petitioner

Vs.

1.The Commissioner,
Adi Dravidar Welfare Department,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Director,
Tribal Welfare Department,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The District Collector,
Thiruvannamalai District,
Thiruvannamalai



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4.The District Adi Dravidar and Tribal Welfare Officer,
Thiruvannamalai District,
Thiruvannamalai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, praying to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.Tha2/0950/2020 dated 26.05.2020 and to quash the same in so far as clause No.1 relate to disqualification of candidates who passed 10th standard to participate in the selection to the post of Cook is concerned and consequently directing the respondents to select and appoint the petitioner to the post of Cook based on the interview conducted on 02.02.2021, with all consequential and other benefits.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.M.Murali

Government Advocate

ORDER

The petitioner herein is the delinquent, the 3rd respondent herein issued the Notification published in the newspapers, vide No.Na.Ka.K1/32009/2020 dated 19.01.2021 calling for applications to the post of 42 Cooks (24 Social Welfare Department) and 18 Tribunal Welfare



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Department in Thiruvannamalai District. In response to the said Notification the petitioner submitted an application and accordingly the petitioner was called for interview by issuing the notice dated 19.01.2021 and accordingly, the petitioner appeared for interview on 02.02.2021 before the 3rd respondent. However, the candidature of the petitioner was not considered by the 3rd respondent on the ground that the petitioner has passed 10th standard. The qualifications that are described in terms of the guidelines issued in proceedings ந.க. எண்.த2/0950/2020 dated 26.05.2020, it is only the candidates who failed in 10th standard are eligible to make an application pursuant to the notification in question. Therefore, the 3rd respondent has not selected the petitioner and not considered the case of the petitioner on the ground that he has passed 10th standard/over qualified. Aggrieved by the same, the petitioner approached this Court by filing the present writ petition, challenging the qualification prescribed in proceedings ந.க. எண்.த2/0950/2020 dated 26.05.2020.

2.This Court, while entering the writ petition, passed an interim order permitting the selection process to go on pursuant to the notification



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and subjecting the said selection process to the result of the writ petition, by an interim order in W.P.No.4340 of 2021 dated 26.02.2021.

3.As seen from the counter affidavit, the selection process was completed and all the 42 posts notified were filled up. The issue as to whether the candidate who is over qualification, can be disqualified, while filling up the post of Cook has, come up for consideration before a learned Division Bench of this Court in W.A(MD).No.1562 of 2023 etc., batch and in the said decision, it was held that disqualifying the candidates on the ground of over qualification is not valid. The relevant paragraph from the order of the Division Bench reads as under:

30.1. In respect of the writ appeals on hand, violations are committed by selecting the overaged candidates with reference to the Special Rules and recruitment notification. The appointed candidates are to be segregated into two categories viz., overqualified candidates and overaged candidates. Regarding appointment of overqualified candidates, their selection and appointment to the post of Cook cannot be termed as illegal, since there is no prescription of maximum educational qualification either in the Special Rules or in the recruitment notification. Thus, the appointment of overqualified candidates in the post of Cook is held to be valid ".



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4. In the light of the above decision, the action of the 3rd respondent in not considering the case of the petitioner for filling up the post of Cook pursuant to the notification dated 19.01.2021 on the ground of passing 10th/SSLC examination is bound to be declared as illegal and invalid. Consequently, the petitioner is entitled for consideration of his case on par with other similarly situated candidates without reference to the so called over qualification of the petitioner. As the selection process is permitted to be completed, subject to the result of the writ petition, it is obligatory that the said appointments made for filling up the 42 post of Cook cannot be said to be final, as they are made subject to the result of this writ petition.

5. In view of the above, it is obligatory on the part of the respondent to review the selection process that was already completed, by duly considering the case of the petitioner on par with the other similarly situated candidates.

6. In the light of the above, the 3rd respondent is directed to review the selection already concluded, pursuant to the Notification dated 19.01.2021 by duly considering the case of the petitioner and for being appointed to the



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post of Cook in response to the said notification or in the alternative to consider the case of the petitioner for being appointed to the post of Cook in any of the existing vacancy, subject to the petitioner satisfying all other qualification criteria, and coming up within the zone of consideration. In case if the petitioner is found entitled for appointment he shall be extended all the service benefits in terms of his merit except back wages.

7. Accordingly, the writ petition is allowed. No costs. consequently, connected miscellaneous petitions are closed.

19.06.2024

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To

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