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W.P.No.8465 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

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THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.8465 of 2018
and WMP.No.10409 of 2018

Adhilakshmi

... Petitioner

Vs.

1. The District Collector,
Vellore,
Vellore District.
2. The District Project Officer,
The Integrated Child Development Services Scheme,
Vellore District.
3. The Child Development Services Scheme Officer,
Kaveripakkam Block,
Kaveripakkam Taluk,
Vellore District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order in Se.Mu.No.5711/A2/2017, dated 05.12.2017 passed by the 2nd respondent and quash the same and consequently direct the respondents to reinstate the petitioner into service as Anganvadi Assistant in Koothampakkam Middle School Anganvadi Center, Kaverippakkam Block,



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Kaverippakkam Taluk, Vellore District.

For Petitioner : Mr.P.Ganesan
for M/s.M.Jagajeevan

For Respondents : Mr.V.Jeeva Giridharan,
Additional Government Pleader

ORDER

Heard learned counsel for the petitioner and learned Additional Government Pleader appearing for the respondents and carefully perused the materials available on record.

2. The case of the petitioner is that the second respondent called for applications to the post of Anganvadi Assistant in various centres in Vellore District. The petitioner made application for the post of Anganvadi Assistant in Koothampakkam Middle School Anganvadi Center. The petitioner was called for to attend interview on 18.09.2017. The petitioner attended the interview and thereafter she was selected and appointed as Anganvadi Assistant and got salary for 2 months. At that juncture, to her shock and surprise, the third respondent issued a show cause notice dated 01.11.2017 stating that the vacancy wherein the petitioner was appointed is reserved for scheduled caste and since the petitioner belongs to Schedule Caste



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Arunthathiyar, she is not eligible for appointment in the said vacancy. In the said show cause notice, it is informed to the petitioner to submit her explanation within 3 days from the date of receipt of notice stating as to why she should not be terminated from the post of Anganvadi Assistant. The petitioner submitted her explanation on 08.11.2017 stating that she is having 2 female children and her entire family is depending upon the income earned from the said post. She belongs to Schedule Caste Arunthathiyar and requested not to terminate her from service.

3. On receiving the explanation, the second respondent passed the proceedings dated 10.11.2017 to conduct enquiry in this regard and also instructed the petitioner to appear before the second respondent on 10.11.2017. Thereafter, the second respondent passed the order dated 05.12.2017 terminating the service of the petitioner from the post of Anganvadi Assistant. Aggrieved by the same, the present Writ Petition has been filed.

4. The learned counsel for the petitioner would submit that the second respondent failed to note that the petitioner belongs to Schedule Caste



Arunthathiyar, whereas her sub caste is Arunthathiyar which means the Arunthathiyar is a part of Schedule Caste and as such, the petitioner should not be deviated from the Schedule Caste. In other words, Schedule Caste Arunthathiyar can be accommodated in the place reserved for the Schedule Caste General, but Schedule Caste (General) person could not be accommodated in the place reserved for Schedule Caste (Arunthathiyar) community.

5. The learned counsel further submits that the second and third respondents have taken a wrong view by terminating the petitioner from service for the simple reason that the petitioner belongs to Schedule Caste (Arunthathiyar). He further submits that being Schedule Caste (Arunthathiyar), the petitioner attained the eligibility criteria among Schedule Caste candidates irrespective of the sub castes, as such, she should not be terminated on the ground of sub caste. Accordingly, the learned counsel for the petitioner sought to set aside the order impugned in this Writ Petition and request to allow the Writ Petition.

6. A counter affidavit has been filed on behalf of the respondents, wherein it is averred that the applications were called for to fill up the



vacancies in the post of Anganvadi Helper at Koothampakkam Middle School Anganvadi Center in Kaveripakkam Block. These vacancies were reserved for SC Non Priority Category as per the communal roster fixed for this centre as per G.O.Ms.No.142, P & AR Department, dated 14.10.2009. The Block Level Selection Committee constituted had conducted interview and recommended the petitioner for the post of Anganvadi Helper by mistake and orders of appointment dated 28.09.2017 was also issued to her.

7. It is further averred in the counter that later it was noticed on verification by the Child Development Project Officer, Kaveripakkam that the petitioner belongs to Schedule Caste (Arunthathiyar), whereas as per the communal rotation fixed for Koothampakkam Middle School Anganvadi Center was Schedule Caste. It is stated that the Selection Committee while verifying documents of the petitioner failed to notice that the petitioner does not belong to community fixed for this Centre and selected the petitioner by mistake. The Child Development Project Officer, Kaveripakkam in her letter No.267/17, dated 27.10.2017 has requested to cancel the appointment issued in favour of the petitioner. Accordingly, show cause notice was issued to the petitioner on 10.11.2017 and after receipt of reply from the petitioner a



personal hearing was held on 16.11.2017 and on considering the same, the petitioner was dismissed from service by proceedings dated 05.12.2017 by the District Programme Officer, Vellore.

8. Basing on the averments made in the counter affidavit, the learned Additional Government Pleader appearing for the respondents would submit that the order of dismissal from service of the petitioner was issued by following due procedures without any violation and hence, sought to dismiss the Writ Petition.

9. This Court gave anxious consideration to the arguments advanced by the respective counsels and carefully examined the entire record.

10. It is an admitted fact that the vacancy of Anganvadi Helper in Koothampakkam Middle School Anganvadi Center was notified for SC Non Priority Category. There is no dispute that the petitioner belongs to Schedule Caste (Arunthathiyar). In response to the notification calling for applications, 4 candidates submitted their applications. Out of 4 candidates, 2 belong to Schedule Caste and 2 belong to Schedule Caste (Arunthathiyar).



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The 2 candidates belong to Schedule Caste are residents of the neighbouring Village and they are not residents of the hamlet where the Anganvadi Centre is situated. The petitioner and one another candidate, who belong to Schedule Caste (Arunthathiyar) are residents of the hamlet where Anganvadi Centre is situated. All 4 candidates attended the interview. Admittedly, all 4 candidates is having requisite qualifications. Considering all these aspects, the Selection Committee recommended the name of the petitioner for appointment to the post of Anganvadi Helper and consequently appointment order was issued to the petitioner on 28.09.2017 and she joined in the said post. Subsequently, the said appointment order was cancelled by dismissing the petitioner from service as Anganvadi Helper on the ground that the vacancy of Anganvadi Helper at Koothampakkam Middle School Anganvadi Center was reserved to Schedule Caste candidates, as the petitioner belongs to Schedule Caste (Arunthathiyar), she is not eligible for consideration. Admittedly, before passing the dismissal order, the respondents issued show cause notice and gave personal hearing to the petitioner by following due procedures.

11. The main issue to be considered in this Writ Petition is as to whether the order of dismissal of the petitioner from service as she belongs



to Schedule Caste (Arunthathiyar), who was appointed in the vacancy reserved to Schedule Caste Category, is sustainable or not?

12. For proper adjudication of this issue, it is relevant to look into Section 27 (a) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, as extracted hereunder:

“27. Reservation of appointments.- Where the special rules lay down that the principle of reservation of appointments shall apply to any service, class or category, selection for appointment thereto shall be made on the following basis:-

(a) The unit of selection for appointment, for the purpose of this section, shall be two hundred, of which thirty six shall be reserved for the Scheduled Castes including six offered to Arunthathiyars on preferential basis amongst the Scheduled Castes, two for the Scheduled Tribes, fifty three for the Backward Classes (other than Backward Class Muslims, Most Backward Classes and Denotified Communities), seven for the Backward Class Muslims, forty for the Most Backward Classes and the Denotified Communities and sixty two shall be filled on the basis of merit:

Provided that if even after filling up of the required appointments or posts reserved for Arunthathiyars amongst the Scheduled Castes in Schedule-V, if more number of qualified Arunthathiyars are available, such excess number of



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candidates of Arunthathiyars shall be entitled to compete with the other Scheduled Castes in the inter-se-merit among them and if any appointment or post reserved for Arunthathiyars remain unfilled for want of adequate number of qualified candidates, it shall be filled up by Scheduled Castes other than Arunthathiyars.”

13. On a bare reading of Section 27 (a) of the above provision it is clear that even after filling up of the required post reserved for Arunthathiyar among the Schedule Castes, if more number of qualified Arunthathiyar candidates are available, such excess number of Arunthathiyar candidates shall be entitled to compete with the Schedule Castes *inter se* merit among them. It is also provided that if any post reserved for Arunthathiyars remain unfilled for want of adequate number of qualified candidates, it shall be filled by Schedule Caste candidates other than the Arunthathiyars. It appears that the intention of the Lawmakers is to incorporate such proviso to Section 27 is to see that if the vacancies reserved for Arunthathiyars remain unfilled for want of adequate number of qualified candidates, it should not be kept vacant unfilled. The said unfilled vacancies shall be filled up by Schedule Castes other than Arunthathiyars. The main intention of the Lawmakers is to fill all the vacancies earmarked for



Schedule Caste category or Schedule Caste (Arunthathiyar) Category with the qualified candidates belong to such categories.

14. In the present case, though the vacancy of Anganvadi Helper is reserved for Schedule Caste candidates, no eligible candidates from the Schedule Caste category is available in the said hamlet / village. As per the G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW7) Department, dated 14.05.2012, with respect to the residence of the candidates it is provided that if no eligible candidate is available from the same hamlet, where Anganvadi Center is situated, therefore the candidates residing in neighbouring hamlets in the same village has to be considered. If no eligible candidate from other hamlets of the same village also not available, then only the candidates who are residing within 10 Kilometers radius in the neighbouring villages has to be considered.

15. In the present case, admittedly, no eligible candidate is available from the Schedule Castes Category, who are residing in the same hamlet where the Anganvadi Center is situated. Accordingly, the Selection Committee has considered the eligibility of all applicants and also



considering the fact that the petitioner is resident of the same hamlet, where the Anganvadi Center is situated and also taking into account all other aspects, has selected the petitioner.

16. Besides this, when Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 provides to fill vacancies reserved for Arunthathiyars by the Schedule Castes other than Arunthathiyars for want of adequate number of qualified candidates from Arunthathiyar Community, there is no irrationality in adopting the same analogy to fill the vacancies reserved for Schedule Caste category for want of qualified candidates. By applying the same analogy, as was provided under Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, as no eligible Schedule Caste candidate is available from the same hamlet, where Anganvadi Center is situated, appointing the eligible Schedule Caste (Arunthathiyar) candidate in the said vacancy, cannot be found faulted.

17. Under this circumstances, in the considered opinion of this Court, the order dated 05.12.2017 issued by the second respondent dismissing the petitioner from service from the post of Anganvadi Helper has to be treated as untenable and unsustainable and accordingly, it is declared as illegal and



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irrational.

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18. For the aforesaid reasons, this Writ Petition is allowed with the following directions:

i) The impugned order in Se.Mu.No.5711/A2/2017, dated 05.12.2017 passed by the second respondent is hereby quashed.

ii) The respondents are directed to reinstate the petitioner into service as Anganvadi Assistant in Koothampakkam Middle School Anganvadi Center forthwith.

No costs.

Consequently connected miscellaneous petition is closed.

18.09.2024

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
pvs

To

1. The District Collector,
Vellore,
Vellore District.
2. The District Project Officer,
The Integrated Child Development Services Scheme,
Vellore District.

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3. The Child Development Services Scheme Officer,
Kaveripakkam Block,
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