



W.P.No.27987 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.27987 of 2012

Mrs.M.Thatshayini

...Petitioner

-Vs-

1.The Secretary to Government of Tamil Nadu,
Social Welfare and Noon Meal Scheme Department,
Government of Tamil Nadu, Chennai – 600 009.

2.The State Commissioner,
Physically Handicapped Welfare Department,
Chennai – 600 006.

3.The District Collector,
Salem.

4.The Panchayat Commissioner,
Mecheri Panchayat Union,
Mecheri, Salem District – 636 453.

5.Tmt.Ma.Kowsalya

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records in respect of the impugned order of the 3rd respondent dated 16.08.2012 and made in Na.Ka.No.60/2012/SA.UTHI.2 and quash the same and direct the respondents to appoint the petitioner



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herein as Noon Meal Organiser in accordance with Sections 32, 33 of the Persons with Disabilities (Equal opportunities, Protection of Rights and full Participation) Act 1995 (1 of 1996) and in accordance with Government Order passed by the Tamil Nadu Government in G.O.Ms.No.200 Social Welfare and Noon Meal Scheme Department dated 22.12.2006, G.O.Ms.No.87, Social Welfare and Noon Meal Scheme Department dated 17.07.2008, G.O.Ms.No.117, Social Welfare and Noon Meal Scheme Department, dated 27.08.2008 and pass such further orders.

For Petitioner	:	M/s.B.Leena for Mr.M.Nanda Kumar
For R1 to R3	:	Mr.M.Rajendiran Additional Government Pleader
For R4	:	Mr.S.V.Durai Solaimalai
For R5	:	No appearance

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the 3rd respondent made in Na.Ka.No.60/2012/SA.UTHI.2 dated 16.08.2012 and direct the respondents to appoint the petitioner herein as Noon Meal Organiser in accordance with Sections 32 and 33 of the Persons with Disabilities (Equal opportunities, Protection of Rights and full Participation) Act 1995 (1 of 1996) and in accordance with Government Order passed by the Tamil Nadu Government



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in G.O.Ms.No.200 Social Welfare and Nutritious Meal Programme

Department dated 22.12.2006, G.O.Ms.No.87, Social Welfare and Nutritious Meal Programme Department dated 17.07.2008, G.O.Ms.No.117, Social Welfare and Nutritious Meal Programme Department, dated 27.08.2008.

2. The case of the petitioner is that she is a physically handicapped woman, who has been deserted by her husband for the past 7 years. While she was waiting for employment, the 1st respondent department through respondents 3 and 4, called for an interview for the post of Noon Meal Organizer, Cook and Asistant under Dr.MGR Noon Meal Scheme and Integrated Child Development Scheme (ICDS) and conducted the interview on 09.03.2007, 11.09.2008, 25.09.2008, 01.02.2010, 10.11.2011, 06.07.2012 and 04.08.2012 respectively. She also attended all the interviews on the respective dates, but was not selected.

3. Learned counsel for the petitioner submitted that the 3rd respondent vide his circular dated May 2012 in Na.Ka.No.60/2012/SA.UTH12, intimated the number of vacant positions as on 31-07-2011 and also prescribed educational qualifications and other eligibility conditions as such for recruitment to various posts, viz., Noon Meal Organiser, Cook, Assistant.



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The eligibility condition for Noon Meal Organiser for General Category, Scheduled Caste is X standard pass, age limit for widows, deserted women is 21-40 years and additional eligibility is within 3 Km. Even though she satisfied all the prescribed eligibility qualifications and also appeared for all the interviews was not selected for the past 13 years she has been without employment despite having all the eligibility and prescribed qualifications she have been singled out for no reasons. As all the posts which are earmarked for women and special reservations for deserted women/widow are made, she had full hope of being appointed but the rules were not followed in spirit. Surprisingly, she came to know that the 3rd respondent issued an appointment letter to the 4th respondent for the post of Noon Meal Organiser which is against the rule of reservation.

4. Learned counsel further submitted that though she is a physically handicapped, deserted woman with all eligible prescribed qualifications she was not selected for the above said post of Noon Meal Organiser. Sections 32 and 33 of the Persons with Disabilities (Equal opportunities, Protection of Rights and full Participation) Act 1995 (1 of 1996) confer right to the petitioner for equal opportunity and rule of reservation which were not followed and the impugned order is liable to be set aside on the same score.



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The Tamil Nadu Government through its Government Orders in G.O.Ms.No.200 Social Welfare and Nutritious Meal Programme Department dated 22.12.2006, G.O.Ms.No. 87 Social Welfare and Nutritious Meal Programme dated 17.7.2008, G.O.Ms.No.117 Social Welfare and Nutritious Meal Programme dated 27.8.2008 conferred rights to the petitioner for equal opportunity and rule of reservation, which were not followed in the selection process.

5. A counter affidavit was filed on behalf of the 4th respondent dated 11.12.2012 and the relevant portion is extracted hereunder for better appreciation and understanding:

“7.It is also submitted that the petitioner has submitted in her affidavit that she is a differently abled person and has been deserted by her husband. But she has not submitted any proof, while submitting the application for the post or at the time of the interview in support for her statement that she has been deserted by her husband. This seems to be an attempt to submit wrong information to this Hon'ble Court and thus tries to mislead this Hon'ble Court and this is fair on the part of the petitioner. The reservation for the differently abled persons and also communal rotation was followed scrupulously without any deviation in the district level with respect to the total number of persons appointed. Hence the allegations made in this para are baseless and denied.

8.It is further submitted that the 5th respondent submitted the distance Certificate along with her application in which, it was mentioned that the distance from the 5th respondent's residence to the Noon Meal Center is 0.5 Kms. Based on this distance certificate given



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by the Revenue Department Official, 5th respondent was appointed by the 3rd respondent as Noon Meal Organiser in the above said place because of the distance between the centre and residence of the 5th respondent is least among others and there is no violation of guidelines issued the Government in this regard. The 3rd respondent has taken this decision of appointing the 5th respondent as Noon Meal Organiser in the above said place based on the facts submitted by the selection committee and based on the distance certificate furnished and income of family members by the 5th respondent obtaining from the concerned and competent Revenue Departmental Official. This place only for Backward Class candidate only eligible. But this place is not for B.C Women Widow.

9. With regard to the averments made in Grounds (A) to (C) of the affidavit it is submitted that the impugned order is within the norms prescribed in the guidelines. It is also submitted that absolutely there is no merit and substance to sustain the above Writ Petition. The 5th respondent submitted the distance certificate along with her application in which, it was mentioned that the distance from the 5th respondent's residence to the Noon Meal Center is 0.5 Kms. It is the least distance from the centre and residence among the 14 contestants of the said post. Based on the distance certificate given by the competent Revenue Department Official, 5th respondent was appointed by the third respondent vide his proceedings Na.Ka. 60/2012/Sa.Vu.Thi-2, dated 16.08.2012 (Copy enclosed) as Noon Meal Organiser in the Noon Meal Center functioning at Kaligoundanur Panchayat Union Elementary school, Mecheri Panchayat Union, Salem Taluk, Salem District. As the 5th respondent is found to be most suitable for this job than the petitioner based on the distance of their residence from the Noon Meal Center and thus the selection was made as per the guidelines issued i.e., G.O.Ms.No.163, Social Welfare Department, dated 18.08.2010 by the Government.”

6. Learned Additional Government Pleader appearing for respondents



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1 to 3 has submitted a copy of the Interview Team Report and the same is also recorded by this Court.

7. Heard both sides and perused the materials available on record.

8. In the case on hand, the petitioner is a physically handicapped person and at the time of interview she had not submitted the Disability Certificate. Hence, in the interview team report in the question column it is clearly mentioned that whether the petitioner is a physically handicapped person, the answer in the column is 'No' and in regard to the 5th respondent, the answer in the column is also 'No'. Hence, it is clear and evident that the petitioner had not submitted the Disability Certificate at the time of interview conducted by the 3rd respondent. The petitioner was aged about 32 years at the time of filing the writ petition and as on date, she is 44 years. As per G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, the age limit is 21 - 40 years for the General Category and 18 - 40 years for the Scheduled Caste and now the petitioner is over aged as on date.

9. In view of the above factual matrix of the case, especially taking into consideration that the petitioner is a physically challenged person



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she is directed to give a representation to the 3rd respondent, the District Collector, Salem, within a period of two weeks from the date of receipt of a copy of the order along with a copy of the Disability Certificate that was issued in the year 2004 and subsequently, the smart card of the year 2019, in order to prove that she is a physically challenged person, and her Desertion Certificate issued by the Tahsildar, Mettur Taluk, Salem District, dated 23.12.2011, in which it is stated that she was deserted by her husband seven years ago. On receipt of the same, the 3rd respondent, the District Collector, Salem, may consider taking into consideration the above aspects and on merits in accordance with the law and pass appropriate orders within a period of six weeks thereof.

In the result, the writ petition stands disposed of with the above direction. No costs.

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cda

Index : Yes/No

Speaking/Non Speaking order



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To
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