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W.P.No.6423 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.6423 of 2020

- 1.Kokila
- 2.S.Dhanalakshmi
- 3.E.Elamathi
- 4.Prema Kanthasami
- 5.Pushpa
- 6.Kanaka
- 7.Muthulakshmi
- 8.Malathi
- 9.Gnanambal

... Petitioners

Vs.

- 1.The Director,
Ministry of Women & Child Development,
Shastri Bhavan, New Delhi.
- 2.The Director Cum Mission Director,
Women & Child Development Director,
Govt. of Tamil Nadu,
Pammal Nallathambi Street,
Taramani, Chennai – 600 113.
- 3.The District Collector,
Salem District, Salem.
- 4.The District Project Officer,
Integrated Child Development,
2-4, District Collectorate,



W.P.No.6423 of 2020

II Floor, Collectorate Office,
Salem.

... Respondents

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Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to reply of IV respondent dated 12.11.2019 in her proceeding ந.க.எண்.434/அ1/2014-4 and quash the same and direct them to offer jobs to the petitioner as “Child care Centre and cook attached to the Anganwadi Centre's.”

For Petitioners : Mr.A.N.Rajan

For Respondent 1 : Mr.Venkataswamy Babu,
Standing Panel Counsel,
Government of India

For Respondents 2 to 4 : Mr.M.Rajendiran,
Additional Government Pleader

ORDER

This writ petition has been filed to call for the entire records relating to reply of IV respondent dated 12.11.2019 in her proceeding ந.க.எண்.434/அ1/2014-4 and quash the same and direct them to offer jobs to the petitioner as “Child care Centre and cook attached to the Anganwadi Centre's.”



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2. The case of the petitioners that they are appointed by the respondents 3 & 4 as Anganwadi Workers/Mini Anganwadi Workers in Salem district with consolidated monthly income of Rs.3000/- to take care of the child in the child home, attached with Anganwadi. This being the case, the fourth respondent prevented the petitioners from attending the work from 31.03.2019 to till now. Subsequently, the petitioners sent a legal notice to the third respondent and on behalf of the third respondent, the fourth respondent has given a reply vide proceeding Na.Ka.No.434/A1/2014-4 dated 12.11.2019, in which it is mentioned that the Central Government has not allotted fund and for the said reason, they have prevented the petitioners from attending the work. Challenging the said order, the petitioners have come forward with the present writ petition.

3. Learned counsel for the petitioner would submit that the appointment order of the petitioners does not disclose that they will be asked to attend the work only for a period of three years. Further, no written orders were served on the petitioners for their removal and only oral instructions were given to not to attend the work. The petitioner have sent so many



representations to the respondents but no appointments were given to them.

Moreover, in the appointment order, the respondents did not mention that they can terminate the petitioners at any time without giving prior notice or reasons. Hence, he prayed for allowing this writ petition.

4. Learned Additional Advocate General appearing for the respondents submitted a copy of the communication/letter of the Ministry of Women & Child Development dated 13.11.2018 regarding proposal for operating 211 Anganwadi cum Creches under the National Creche Scheme. For better appreciation and understanding, the relevant portion of the communication is extracted hereunder:

“ I am directed to refer to your letter No.Roc.No.5077/NC-3(1)/2016, dated 21.05.2018 on the subject mentioned above and to convey that the Ministry has considered the proposal in consultation with Internal Finance Division of this Ministry and it has now been decided that not to accept the request of Government of Tamil Nadu at this stage.”

In view of the aforesaid communication of the Ministry of Women & Child Development dated 13.11.2018, the Government of Tamil Nadu is unable to operate the Anganwadi Centres cum Creches and the Government has decided to close the same, except in nine districts.



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5. Learned Additional Advocate General appearing for the respondents would further submit that the establishment of 211 Anganwadi Centre Cum Creche in 13 Districts was sanctioned by the Government of Tamil Nadu vide G.O.Ms.No.45, Social Welfare and Nutritious Meal Programme Department, dated 16.09.2014 based on approval of Annual Programme Implementation Plans (APIP) 2014-2015 in respect of Tamil Nadu for Rs.760.08 crore, inclusive of Rs.90.20 lakh as 75% of Government of India's share towards the establishment of 211 Anganwadi Centres-cum-Creche.

6. Learned Additional Advocate General appearing for the respondents drew the attention of this Court to the status report filed by the second respondent dated 05.12.2024 and the relevant paragraphs are extracted hereunder:

“11. The petitioners, engaged under the Anganwadi-cum-Creche scheme, were appointed on a contractual basis as per the G.O.Ms.No.45, SW & NMP Department, dated 16.09.2014 with their employment dependent on the duration and funding of the scheme. Since the scheme has been discontinued and no funding or sanctioned posts are available, it is neither administratively nor legally pertinent to accommodate the petitioners within the ICDS.



WEB COPY



W.P.No.6423 of 2020

12. The petitioners cannot be accommodated in the Anganwadi Centres at this juncture due to the recruitment process for the positions of Anganwadi Workers and Helpers being governed by an open and transparent procedure, as prescribed under the recruitment rules in G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW-7) Department, dated 14.05.2012. The recruitment for these positions is conducted on a state-wide basis, and the filling of vacancies will depend on the discretion of the Government and its requirements at that time.

13. Furthermore, it is important to note that these positions are not of a contractual nature. The remuneration for Anganwadi Workers and Helpers is provided according to a special time scale of pay, in line with the recruitment rules.

14. In the given circumstances and as per the rules, accommodating the petitioners in the Anganwadi Centers at this stage is not feasible. However, the petitioners are open to submit their applications in any future recruitment process for these positions, and their eligibility will be assessed in accordance with the recruitment rules outlined in G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW-7) Department, dated 14.05.2012.”

7. Learned Additional Advocate General appearing for the respondents submitted a written instruction of Director cum Mission Director, Department of Integrated Child Development Services, Chennai vide



W.P.No.6423 of 2020

Roc.No.5077/NC3/2016, dated 12.12.2024 and the same reads follows:

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Description	Anganwadi Worker	Creche worker cum care taker
Mode of Recruitment	1.Direct Appointment 2.Promotion from Anganwadi helper/ Mini Anganwadi Worker 3.Compassionate Appointment	On Contract basis as per existing procedures followed for the appointed of Anganwadi Worker and Helper from 2014. Appointed as per GOI approval in 13 districts for 211 creches.
Scale of pay	Anganwadi Workers are classified as Special time pay scale worker. (Pay matrix schedule- IV PAY GRADE-7700-24200)	Honorarium Rs 3000/- per month.
Nature of work	1. Providing Pre-School Education to children in Anganwadi Centres. (2yrs-5yrs) 2. Improving Supplementary Nutritional status of childrens in Anganwadi Centres. 3. Monitoring health status of pregnant women and Adolescent girls. 4. Maintenance of related records	1. To take care of the children of working mothers. (6 months-6yrs) 2. To give pre-school Education. 3. Ensuring Health check-up and Immunisation. 4. Maintenance of related records.
Working Hours	8.30 a.m to 4.00 p.m	8.00 a.m. to 6.00 p.m.
Action Taken for filling up of vacancies	Proposals has been sent to Government and action is being taken to fill the vacancy.	Scheme was discontinued w.e.f.23.11.2017 as per Govt. of India Letter.No.11/36/2016-CD-I Dated 23.11.2017 of Ministry of Women and Child Development.
Tentative date for filling up of vacancies	MARCH 2025	Does not arise.

//by order//

Sd/.....
Director cum Mission Director
Anthony Lemons
For Director cum Mission Director

Prab
12/12/2024



W.P.No.6423 of 2020

WEB COPY

8. Learned Additional Advocate General appearing for the respondents would further submit that the second respondent has sent a proposal to the Government vide Roc.No.6094/E3(2)/2022, dated 19.06.2024 for filling up the vacancies of Anganwadi Employees in Anganwadi Centres.

9. Heard the learned counsel on either side and perused the materials available on record.

10. In view of the above submission made by the learned Additional Advocate General appearing for the respondents that the proposal has already been sent to the Government to fill up the vacancies of Anganwadi Employees in Anganwadi Centres, it is open to the petitioners to apply for the same when the notification is issued by the second respondent in future, if they fulfill the eligibility conditions as stipulated in the notification and the rules in vogue as on that date.



WEB COPY



W.P.No.6423 of 2020

11. This writ petition is disposed of with the aforesaid observation and direction. No costs.

13.12.2024

(vm)

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

- 1.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
NPKRR Maaligai, 8th Floor,
No.144, Anna Salai,
Chennai – 600 002.
- 2.The Superintending Engineer,
Generation Circle/Kundah,
Kundah Bridge Post,
The Nilgiris – 643 219.
- 3.The Executive Engineer/Electrical,
Kundah Power House-II (Post),
Nilgiris District – 643 219.



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W.P.No.6423 of 2020

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.6423 of 2020



WEB COPY



W.P.No.6423 of 2020

13.12.2024