



WA No.2158 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.2158 of 2022

Rajeswari : Appellant

Vs

1.M.Indira

2.The District Collector
Dharmapuri District

3.The Block Development Officer
Pennagaram, Pennagaram Taluk
Dharmapuri District.

: Respondents

PRAYER: Writ Appeal filed against the order of the learned Single Judge
in W.P.No.8984 of 2018 dated 28-04-2022.



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For the Appellant

:Ms.S.Yogalakshmi
for Mr.M.Guruprasad

For the Respondents

:Mr.C.Prabakaran,
for the first respondent
Mr.C.Kathiravan,
Special Government Pleader,
for the second respondent

Mr.D.Gopal,
for the third respondent

JUDGMENT

(Made by *D.KRISHNAKUMAR, J.*)

The writ appeal is filed against the order of the learned Single

Judge in W.P.No.8984 of 2018 dated 28.04.2022.

2. Brief facts of the case:

2.1. The third respondent invited applications from the individuals for the post of noon meal organizer in a notification. Pursuant to the said notification, the first respondent/petitioner had submitted application to the third respondent for the post of Noon Meal Organizer at the Panchayat Union Middle School at Kodupatti Village in Pennagaram Panchayat Union, Dharmapuri District. Thereafter, vide letter dated 03.07.2017, she was



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directed to appear for interview on 13.07.2017. Accordingly, she appeared in the said interview. However, she was not selected. On 13.11.2017, the appellant herein got selected for the said post. Challenging the said order, the first respondent/petitioner filed the instant writ petition.

2.2. The contention of the first respondent before the Writ Court was that though she is residing within 2 kms from the Noon Meal Centre, the appellant, who is residing within 3 kms from the Noon Meal Centre, has been selected. Further, the first respondent has also relied upon the Government Order in GO Ms. No.163, Social Welfare and Nutritious Meal Program Department dated 18.08.2010 issued by the Government of Tamil Nadu, in which the Government has prescribed distance factor, namely that the selected candidate has to reside within a radius of 3 kms from the Noon Meal Centre.

2.3. The learned Single Judge, pending writ petition had directed the second respondent/District Collector, to re-asses the marks of the candidates, who had submitted their applications for the said post, and to produce the



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records relating to reassessment with reference to suitability for appointment based on the Government Orders. Pursuant to the interim direction of the Writ Court, the second respondent had revised and awarded marks to all the candidates, who had submitted their applications for appointment to the post of Noon Meal Organizer and a report was filed before the Writ Court. Based on the said report, the writ court, by order dated 28.04.2022 had allowed the writ petition, and directed the concerned authorities to decide the further course of action to fill up the post either with the reassessed marks or by way of fresh recruitment, in accordance with law. Challenging the said order, the appellant has preferred the present intra-court appeal.

3. Learned counsel for the appellant submits that in the aforesaid reassessment of marks, the appellant has secured 41 marks, but in the earlier marks awarded by the Committee, she had secured 43 marks. The first respondent has secured only 40 marks in the reassessed marks awarded by the concerned authority. Therefore, the appellant has secured higher marks than the first respondent.



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4. Learned counsel for the appellant would submit that the first respondent alone has filed the writ petition challenging the appointment of the appellant as a Noon Meal Organizer. As per the reassessment of marks awarded by the second respondent, one Mayilveni, has got the highest marks. The appellant has got the second highest marks, which are more than that secured by the first respondent. The said Mayilveni has not challenged the appointment of the appellant. He further submits that no prejudice would be caused if the appellant is being appointed as a Noon Meal Organizer as per the reassessment of marks awarded by the second respondent herein, particularly, when the first respondent has not secured higher marks than the appellant. Hence the said order of the learned Single Judge is liable to be set aside.

5. Learned counsel for the first respondent submits that the writ court has passed an order by directing the second respondent to re-assess the marks of all the candidates, who had submitted their applications for the said post in the said Panchayat. Since the appellant has not secured the highest marks, the Writ Court has rightly given directions to the concerned



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authorities to decide the further course of action to fill up the post either with the reassessed marks or by way of fresh recruitment, in accordance with law.

Therefore, nothing warrants to interfere with the order of the writ court.

6. Learned counsel for the third respondent panchayat would submit that selection has been made to the said post based on the marks awarded by the Committee as per the Government Orders. Now re-assessment marks have been awarded and one Mayilveni has secured the highest marks and she has not challenged before this Court or party in the present proceedings. He further submits that selection of the appellant/third respondent was based on the marks awarded by the committee. Now as per the reassessment, 41 marks have been awarded to the appellant. Therefore, considering the said fact, this court may pass appropriate orders.

7. Heard the parties and perused the materials available on record.

8. The short point for consideration in the present appeal is whether



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the appellant is eligible for appointment or not as per the reassessment of marks.

9. The appellant has secured highest marks in the interview conducted by the committee and she was selected and appointment order has been issued in favour of the appellant. The first respondent has challenged the aforesaid appointment order in the instant writ petition and the writ court has directed for reassessment. As per the reassessment of marks, the appellant has secured 41 marks while one Magilveni has secured 42 marks and hence, the writ court directed the second respondent to decide the further course of action to fill up the post either with the reassessed marks or by way of fresh recruitment, in accordance with law.

10. Based on the reassessment of marks, the candidate who scored the highest marks should be selected and issued with the posting orders. As per the reassessment of marks, one Magilveni has got highest marks. She has not challenged the said appointment of the appellant to the said post in the panchayat. She is also not party to the entire proceedings, on the other hand,



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the first respondent alone has challenged the appointment of the appellant.

The first respondent has not secured higher marks than the appellant.

Therefore, the lis is between the first respondent and the appellant herein.

The reassessment marks awarded by the second respondent, clearly shows that the appellant has secured higher marks than that of the first respondent, and therefore, the first respondent is not eligible to get appointment.

11. Considering the fact that the said Magilveni has neither challenged the appointment of the appellant nor even a party in the proceedings and considering the fact that appointment order has been issued in favour of the appellant in the year 2017 and she has been continuously working in the post of Noon Meal Organizer for more than 7 years, we do not want to disturb the appellant and interfere with the said appointment order issued to the appellant by the second respondent. Therefore, we have no hesitation to set aside the order of the learned Single Judge impugned in the writ appeal and accordingly, the order dated 28.04.2022 of the writ court is set aside. Consequently, the writ appeal stands allowed. There shall be no order as to costs. Consequently, CMP No.16079 of 2022 is closed.



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[D.K.K., J.] [K.B., J.]
05.06.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

- 1.The District Collector
Dharmapuri District
- 2.The Block Development Officer
Pennanagaram, Pennagaram Taluk
Dharmapuri District.

D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)



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