



W.A. No.3011 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3011 of 2024

and

CMP. No.22580 of 2024

Rekha

Appellant

Vs.

1.R.Mahesh

2.The District Programme Officer,
Integrated Child Development Service Scheme,
Dharmapuri District.

3.The Project Officer,
Child Development Scheme, Morappur,
Harur Taluk, Dharmapuri District.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside
the order in W.P. No.5665 of 2018 dated 02.09.2024.

For Appellant
For R1
For RR 2 & 3

Mr.R.Jayaprakash
No appearance
Mr. S. Yashwanth
Additional Government Pleader



W.A. No.3011 of 2024

J U D G M E N T

WEB COPY

(delivered by MR.JUSTICE D.KRISHNAKUMAR)

This writ appeal impugns the order dated 02.09.2024 passed by a Single Bench in W.P.No.5665 of 2018.

2. The facts in brief leading to the filing of this writ appeal are as under:

2.1 In response to notification issued by the second respondent during August 2017, for filling up vacancies to the post of Mini Anganwadi Worker, the first respondent applied for the Mini Anganwadi Center at Andipatty. Pursuant thereof, the third respondent, *vide* memo dated 01.09.2017, called upon the first respondent to attend an interview on 12.09.2017 with all required testimonials. Accordingly, the first respondent, being a widow and a resident of Polayampalli Panchayat, as prescribed in the norms for appointment, attended the interview. However, the appellant, a resident of some other Panchayat and residing 5 kms. away from the Anganwadi Centre, was appointed *vide* order dated 09.02.2018 of the second respondent.



W.A. No.3011 of 2024

2.2 Contending *inter alia* that firstly, the appellant was appointed in violation of G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme Department dated 14.05.2012 and that the she, who resides in a place which is just 1.50 kms. away from the Centre, should be appointed, the first respondent filed the writ petition being W.P.No.5665 of 2018 challenging the order dated 09.02.2018 in and by which the appellant was appointed as Anganwadi Worker.

2.3 The Single Bench, *vide* order dated 02.09.2024, by exercising the extraordinary jurisdiction under Article 226 of the Constitution of India, set aside the entire selection process and also the appointment order issued to the appellant, which was impugned in the writ petition, and eventually, disposed of the writ petition by directing that one Sengudi who is the only candidate hailing from the same Panchayat should be appointed as Anganwadi Worker.

2.4 Thereagainst, this writ appeal has been preferred.



W.A. No.3011 of 2024

3. The main ground based on which the Single Bench disposed of the writ petition is that the procedure prescribed in G.O.Ms. No.110, *supra*, was not followed. For ease of reference and at the cost of verbosity, the relevant paragraph of the said Government Order is extracted below:

“The applicant should be the resident of same hamlet. If no suitable/eligible candidates from same hamlet are available, the candidates from the neighbouring hamlets for the same Panchayat of the particular centre shall be considered. Even then, the eligible candidates are not available, the candidates from neighbouring Panchayat located within 10 kms., shall be considered for the appointment of Anganwadi Worker.”

4. Heard the learned counsel for the appellant and the learned Additional Government Pleader for respondents 2 and 3. Despite service of notice and her name having been printed in the cause list, none appears for the first respondent.

5. It is not in dispute that, in the interview, the first respondent, the appellant and Sengudi, who was directed to be appointed by the Single Bench, had secured 33, 36 and 32 respectively. It is also not in dispute that the first respondent resides in a place which is 3.80 kms. away from the Centre, whereas, the appellant resides in a place which is 7.70 kms. away



W.A. No.3011 of 2024

from the Centre.

WEB COPY

6. However, it is to be noted that firstly, Sengudi had not challenged the appointment given to the appellant and it is only the first respondent who had challenged the appointment given to the appellant by filing the writ petition.

7. Secondly, though Sengudi had secured only 32 marks which is admittedly less than the marks secured by the appellant, the reason assigned by the Single Bench for directing appointment of Sengudi is that she is the only candidate from the same Panchayat. This reasoning goes against the law laid down by a catena of judgments of the Division Benches of this Court, wherein, it has been held in no uncertain terms that proximity of residence/locality is only a preference and not a qualification by itself.

8. Thirdly, it is brought to the notice of this Court by way of counter affidavit dated 09.09.2024 of the third respondent that Sengudi's husband, Mr.Theerthagiri has been working as Steno Typist from



W.A. No.3011 of 2024

27.09.2012 which is a Government post. Such being the case, appointment of Sengudi will be contrary to the rules governing appointment of Anganwadi Workers and this aspect was not brought to the notice of the Single Bench. To be noted, Sengudi's husband was appointed in Government service even prior to the order of the Single Bench which is evident from the appointment order dated 25.09.2012 of Theerthagiri, Sengudi's husband.

9. Fourthly, it will not be out of place to point out that the first respondent has wrongly stated the name of the appellant as “Renuka” instead of “Rekha” in the cause title of the writ petition, because of which, the appellant could not contest the writ petition. During the hearing of this writ appeal, the learned counsel for the appellant produced a copy of the appointment order of the appellant in which the name of the appellant has been correctly shown as “Rekha”. That being the case, this Court is at a loss to understand as to how the first respondent had challenged the impugned order which shows the name of the appellant as “Renuka”.



W.A. No.3011 of 2024

10. Last but not the least, the appellant has also been promoted from the post of Mini Anganwadi Worker to the post of Main Anganwadi Worker vide proceedings on 10.08.2023 and again, this promotion also had taken place even prior to the order passed by the Single Bench.

11. In view of the foregoing reasons, the order impugned passed by the Single Bench is set aside and as a sequel, this writ appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

(D.K.K.J.) (P.B.B.J.)
11.11.2024

Internet: Yes/No
Index : Yes/No
Speaking Order/Non Speaking Order
rkp



WEB COPY



W.A. No.3011 of 2024

D. KRISHNAKUMAR. J.,
and
P.B.BALAJI, J.

rkp

To

1. The District Programme Officer,
Integrated Child Development Service Scheme,
Dharmapuri District.
2. The Project Officer,
Child Development Scheme, Morappur,
Harur Taluk, Dharmapuri District.

W.A.No.3011 of 2024
and CMP. No.22580 of 2024

11.11.2024