



W.P.No.20054 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.04.2024

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.20054 of 2018
and
W.M.P.No.23517 of 2018

Smt. P.Malarvizhi

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Cuddalore District,
Cuddalore.
2. The Personal Assistant to the District Collector,
(Noon Meal),
Collectorate,
Cuddalore District,
Cuddalore.
3. The Regional Development Officer,
Mangalore Panchayat Union,
Mangalore,
Cuddalore District.
4. The Panchayat Union Primary School,
Rep by its Head Master,
Mangalore Panchayat Union,

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Vathittapuram,
Cuddalore District.

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for entire records pertaining to passing of the order dated 09.04.2018 Na.Ka.PD1/298/2016 by the 2nd Respondent herein and quash the same consequentially directing the respondents to placed the job to the petitioner as per appointment order dated 27.03.2018 in Na.Ka.PD1/298/2016 with all attendants benefits.

For Petitioner	: Mr.J.Chezhan
For R1 to R3	: Mr.M.Murali, Government Advocate
For R4	: Mr.K.H.Ravi Kumar, Government Advocate

ORDER

The Writ Petition has been filed against an order dated 09.04.2018 bearing Na.Ka.PD1/298/2016 passed by the 2nd Respondent herein and sought for a direction, directing the respondents to give job to the petitioner as per appointment order dated 27.03.2018 bearing Na.Ka.PD1/298/2016



with all attendants benefits.

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2. The petitioner herein, after undergoing the process of selection including the interview conducted on two occasions, has been appointed as "Nutritious Meal Assistant" in the the Mangalore Panchayat Union School under the M.G.R.Nutritious Scheme in the payscale of Rs.3000/- to Rs.9000/- through proceedings in Na.Ka.No.PD1/298/2016 dated 27.03.2018.

3. According to the petitioner, she reported to duty on 02.04.2018, but she was not allowed to work and instead, the impugned proceedings bearing Na.Ka.PD1/298/2016 dated 09.04.2018 was served on her on 27.04.2018, cancelling her appointment on the ground that the petitioner is residing beyond a distance of 3 k.ms., and therefore, she is not qualified for the post in question. Aggrieved by the said proceedings dated 09.04.2018, the petitioner approached this Court by filing the present Writ Petition contending that her residence is only at a distance of 2.5 k.ms., from the School in question, but not 3.8 k.ms., as contended by the respondents. It is



further contended that the petitioner belongs to Hindu Adi Dravida Community and she lost her husband on 03.01.2023 and has to take care of 9 year old mentally retarded child and therefore, the employment in question is very much necessary for their survival.

4. The respondents filed counter-affidavit contending that after the issuance of appointment order in favour of the petitioner, there was a complaint made by Tmt.Vaishnavi on 04.04.2018 complaining that the distance between Keezhseruvai and Vathittapuram is 3800 metres or 4 k.ms., and therefore, the petitioner is not qualified for the post in question and consequently, the report stated to have been called for and accordingly the impugned order came to be issued.

5. From the perusal of the impugned order as well as the counter-affidavit filed by the respondents, there is nothing to show that the petitioner was put on notice before issuing the impugned proceedings dated 09.04.2018, cancelling her appointment. If at all the respondents have come to the conclusion that the petitioner is not qualified for any reason after she



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was appointed to the post in question, it is always open to the respondents to put the petitioner on notice and afford her an opportunity and then pass appropriate orders in accordance with law. As contended by the petitioner in the affidavit filed in support of the Writ Petition, the distance between the residence of the petitioner and the School in question is only 2.5 k.ms., but not 3.8 k.ms., as contended by the respondents.

6. In the light of the said contention, the action of the respondents in issuing the impugned order without putting the petitioner on notice is bound to be declared as illegal, arbitrary and violative of the principles of natural justice. The impugned order is liable to be set aside on this ground alone.

7. Be that as it may. The petitioner herein claims to be a widow belonging to Hindu Adi Dravida Community with a responsibility of taking care a special child, who is mentally retarded. The petitioner was already issued with the appointment order, but she was not allowed to join in duty. In the circumstances, the respondents are required to consider the case of



the petitioner on sympathetic grounds instead of applying the qualification criteria purely on technical considerations.

8. This Court considers that it is a fit case where this Court should exercise its discretionary and equity jurisdiction under Article 226 of the Constitution of India which is also held to be on par with the jurisdiction of the Hon'ble Apex Court under Article 141 of the Constitution of India.

9. In the light of the undisputed fact that the petitioner is a widow belonging to Hindu Adi Dravida Community and having a mentally retarded child and also the fact that the impugned order came to be issued without following the principles of natural justice, the impugned order is set aside. Consequently, the respondents are directed to permit the petitioner to join in the post of "Nutritious Meal Assistant" pursuant to the appointment order through proceedings bearing Na.Ka.PD1/298/2016 dated



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27.03.2018. For any reason, the said post for which the petitioner was appointed is not available, the respondents are directed to consider the case of the petitioner for appointment in any of the available vacancies. The entire exercise, as directed above shall be completed by the respondents as expeditiously as possible at any rate within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioner shall be entitled for all the benefits only from the date of this order.

10. Accordingly, the Writ Petition stands disposed of. No costs.
Connected Miscellaneous Petition, if any shall stand closed.

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skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

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MUMMINENI SUDHEER KUMAR, J.

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