



W.P.(MD).Nos.18330, 18368 & 18369 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.18330, 18368 & 18369 of 2021

and

W.M.P(MD)No.15175 & 15178 of 2021

W.P(MD)No.18330 of 2021:

Govindammal

... Petitioner

Vs.

1.The Secretary to Government,
Department of Backward Classes, Most Backward
Classed and De-notified Communities and Minorities Welfare,
Secretariat, Saint George Fort,
Chennai.

2.The Director,
Directorate of Backward Classes Welfare,
Ezhilagam Annexer Building II Floor,
Chepauk,
Chennai-600 005.

3.The District Backward Class and
Minorities Welfare Officer,
Sivagangai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize the petitioner in the post of cook with effect from 25.09.1998 on par



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with similarly appointed persons with all monetary benefits within the time frame.

W.P(MD)No.18368 of 2021:

Umayal

... Petitioner

Vs.

1.The Secretary to Government,
Department of Backward Classes, Most Backward
Classed and De-notified Communities and Minorities Welfare,
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Chennai.

2.The Director,
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Chennai-600 005.

3.The District Backward Class and
Minorities Welfare Officer,
Sivagangai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.Y.1/452/2014, dated 02.09.2014 on the file of the respondent no.3 and quash the same and consequently to direct the respondents to regularize the petitioner in the post of cook with effect from 25.09.1998 on par with similarly appointed persons with all monetary benefits within the time frame.



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W.P(MD)No.18369 of 2021:

Amudha

... Petitioner

Vs.

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Chennai.

2.The Director,
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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.Y.1/452/2014, dated 02.09.2014 on the file of the respondent no.3 and quash the same and consequently to direct the respondents to regularize the petitioner in the post of cook with effect from 25.09.1998 on par with similarly appointed persons with all monetary benefits within the time frame.

For Petitioners : Mr.G.Chandrasekar
(In all cases)



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For Respondents : Mr.D.Gandhiraj
Special Government Pleader
(In all cases)

COMMON ORDER

The writ petitions came to be filed challenging the impugned order in Na.Ka.Y.1/452/2014, dated 02.09.2014 on the file of the 3rd respondent quash the same and consequently to direct the respondents to regularize the petitioners in the post of Cook with effect from 25.09.1998 on par with similarly appointed persons with all monetary benefits.

2. The very same order, dated 02.09.2014 has already been impugned by similarly placed persons before this Court in W.P(MD)No.9847 of 2014 and 1976 of 2015. The relevant portion of the same is extracted as follows:

“7.This court is unable to reject the contention of the petitioner's counsel that the appointment of the petitioners were against the sanctioned post and that equals cannot be treated unequal, while providing employment or granting pay scale to employees. It is brought to the notice of this Court that the services of several others were regularized with effect from 01.07.1998. When all the persons were appointed pursuant to a process of recruitment, they should be treated as equals. In this case, it is



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admitted that the petitioners were appointed on consolidated pay against sanctioned post. All the petitioners were appointed as sponsored by the employment exchange. The petitioners and others were given consolidated salary of Rs.100/- per month till the salary was revised, by order dated 25.07.2011 from Rs.100/- per month to Rs.500/- per month. By proceedings of the respondents, several other employees were appointed as against the sanctioned post were regularized long before the petitioners were regularized. No valid reason is assigned in the counter affidavit to justify such discrimination. Though it is stated in the counter affidavit that the petitioners are different from others, it is not demonstrated before this court how the others are different from the petitioners in service or different from the petitioners. It is not specifically disputed that the petitioners were also appointed against the regular post. By artificial means, the nature of posts in which the petitioners were appointed cannot be made different. It is admitted before this Court that the petitioners and other candidates were appointed on the same day. It is also stated that as per the list sponsored by the employment exchange, the petitioners were seniors.

8.In such circumstances the petitioners should be considered as seniors to others cannot be denied the benefits of regularization as it was extended to other candidates, who are juniors to the petitioners. Therefore, the petitioner are entitled to succeed, accordingly the impugned orders passed by the second respondent, are quashed. The respondents are directed to regularize the petitioners in the post of cook with effect from 25.09.1998 on par



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with similarly appointed persons. It is needless to say that the petitioners are also entitled to all other monetary benefits which are consequential. This Writ Petition is allowed accordingly.”

3. The writ petitioners herein are similarly placed persons as that of the petitioners in the order extracted supra. All the petitioners were appointed as Cook Helper vide proceedings in Na.Ka.Y.1/27941/97, dated 22.09.1997 of the 3rd respondent. The said post of Cook Helper was a substantial vacancy and all the petitioners were appointed through proper selection as sponsored by the employment exchange and were posted at various girls hostels during the year 1998 and the monthly salary which was fixed at the first instance was at Rs. 100/-. Their salary were increased to Rs.500/- and the work was full time in nature. During 2011 vide proceedings of the 2nd respondent, dated 31.12.2011, the seniority panel for the post of Cooks with their respective date of regularization came to be published. In the said panel, it is found that certain persons who were recruited along with the petitioners were regularized with effect from 1998 onwards. Particularly, two persons, namely M.Arumugam and I.Muthuramalingam were regularized with effect from 25.09.1998 and 03.03.2000 respectively. Hence, the petitioners made several representations before the respondents to treat them on par with those persons, who were



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recruited along with them. However, the same was not considered and the last of such representation was made on 06.05.2014 to the respondent seeking regularization on par with others. However, the representation of the petitioners came to be rejected vide impugned order, dated 02.09.2014.

4. The learned counsel for the petitioners submitted that this matter has already been decided by this Court in W.P(MD)No.9847 of 2014 and 1976 of 2015 and these writ petitions may also be disposed of in similar lines.

5. The 1st respondent has filed a counter affidavit and the learned Special Government Pleader submitted that the petitioners after lapse of 14 years have approached this Court claiming regularization and the same is not sustainable and the writ petitions are liable to be dismissed on the ground of laches and pressed for dismissal of the writ petitions.

6. Heard the learned counsels on either side and perused the materials available on record.



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7. Since the matter has already been settled by this Court by the order extracted supra, I have no hesitation to quash the impugned order in Na.Ka.Y. 1/452/2014, dated 02.09.2014 and thereafter, direct the respondents to regularize the petitioners in the post of Cook with effect from 25.09.1998 on par with M.Arumugam and I.Muthuramalingam. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of copy of this order.

8. Accordingly, all the writ petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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L.VICTORIA GOWRI, J.

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