



W.P(MD)No.22945 of 2

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.22945 of 2022

J.Ramkumar

... Petitioner

Vs.

- 1.The Secretary to Government,
Department of Adi Dravidar and Tribal Welfare,
Secretariat,
Fort St. George,
Chennai.
- 2.The Commissioner,
Directorate of Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai-600 005.
- 3.The District Collector,
Trichy District,
Trichy.
- 4.The District Adi Dravidar and Tribal Welfare Officer,
District Adi Dravidar and Tribal Welfare Office,
Trichirappalli.
- 5.The Assistant Director,
District Employment Office,
Trichirappalli-1.

... 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 appoint the petitioner as Cook in Adi Dravidar & Schedule Tribe Welfare Hostel and Residential School, Trichy under the control of the fourth respondent, on the basis of the petitioner's representation, dated 29.07.2022 within time frame stipulated by this Court and pass such further or other orders as this Court.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This writ petition has been filed seeking for a Mandamus to the respondents to appoint the petitioner as Cook in Adi Dravidar & Schedule Tribe Welfare Hostel and Residential School, Trichy under the control of the fourth respondent, on the basis of the petitioner's representation, dated 29.07.2022.

2. The case of the petitioner is that he has completed the Trade of Food Production in the Government of Tamil Nadu Department of Employment and Training, Chennai and having prior experience of 11 years and also belonged to Scheduled Caste category, the petitioner has registered his educational



qualification in the District Employment Office, Trichy and he is fully qualified for appointment to the post of Cook, since he has rich experience in cooking by way of working as a Cook in so many catering centre. The fourth respondent had caused a paper publication inviting a suitable candidate for the post of Noon-Meal Cooker and Sanitary Workers and as per notification, the Adi Dravidar & Scheduled Tribe Welfare Hostel and Residential School, Trichy District has been notified which is under the control of the fourth respondent.

3. The petitioner is the local candidate and had all requirements for the said post and had applied to the post of Cooker for the Adi Dravidar and Scheduled Tribe Welfare Hostel and Residential School, Trichy District and was called for interview vide letter in Na.Ka.No.W4/19617/2020, dated 19.01.2021 and he was called for the interview on 05.02.2021. The petitioner attended the interview along with necessary documents and he has also given various representations to the third respondent, since he is suffering a lot without employment.

4. The petitioner gave a representation to the respondents 3 and 4 on 05.11.2021 praying appointment but no reply was there from the respondents.



While being so, the fourth respondent has appointed some other person to the post of Cooker, which he came to understand that they had political influence. The petitioner also submitted another representation to respondents 3 and 4 on 17.03.2022 and the same was received by the respondents but there was no action on the part of the respondents. Hence, he has no other option except to approach this Court by way of present writ petition.

5. The counter affidavit also filed by the fourth respondent on 21.11.2022.

6. The learned Government Advocate appearing for the respondents submitted that in regard to appointment of Cook, the District Level Recruitment Committee conducted the personal interview on the dates of 04.02.2021 and 05.02.2021 for selecting candidates to the post of Part-time Sanitary Worker / Sweeper and also no appointment was made in the subject matter. He further submitted that the petitioner has applied for the post of Part-time Sanitary Worker only and not to the post of Cook as claimed by the petitioner in the affidavit filed in support of the writ petition. Pursuant to the application of the petitioner, he was called for the interview for the post of Sanitary Worker on



05.02.2021, since the petitioner has never applied for Cook post. On the other hand, the petitioner seeking relief for appointment to the post of Cook is not maintainable for the reason that the petitioner has applied only to the post of Sanitary Worker. The interviews were concluded on 05.02.2021 but no appointment orders were passed due to the election model code of conduct which came into effect in the month of March, 2021.

7. Today, the learned Government Advocate appearing for the respondents submitted a copy of the letter, vide Na.Ka.No.R3/19411/2020, dated 24.10.2024 issued by the Director of Adi Dravidar Welfare to the District Adi Dravidar and Tribal Welfare Officer, Trichy District, wherein, it is stated that the petitioner, who appeared for the interview for the post of Cook and Sanitary Workers were not appointed due to pending litigations before this Court. The Districts in which the persons, who were not appointed are due to pending litigation are Madurai, Dindigul, Sivagangai, Karur, Thirupur, **Trichy**, Pudukottai and Theni totally 8 Districts and the total number of posts which were not filled is 328 posts in these 8 Districts. It is further submitted by the learned Government Advocate appearing for the respondents that G.O(Ms)No. 49, Personnal and Administrative Reforms Department, dated 14.05.2002 has



been issued by which the appointment to the Group-D category posts like Sweeper, Scavanger, Cleaner and Gardener shall be progressively outsourced and engaged on contract basis. The relevant paragraph of the letter, dated 24.10.2024 is extracted hereunder and reads as follows:

"The public Department in Secretariat the Heads of Department and the District Collectors are entrusted with the responsibility of finalising the tenders for engaging one of more agencies to cater to the requirements of various officers in defined areas. This order is however, not applicable to the post of Office Assistant. While outsourcing the services ordered above a condition may be imposed in the tender to ensure that the existing NMR/consolidated Wage/Daily wage employees are to be given preference in employment by the Contractor to protect the interests of such persons."

8. Heard both sides and perused the materials available on record.

9. In the case on hand, the petitioner has filed the writ petition seeking appointment to the post of Cook, whereas he has applied only for the post of Sweeper and it is an admitted fact that he has attended the interview on 04.05.2021 after that, the model code of conduct has come into effect in March 2021. Hence, the Government could not take any steps to appoint the petitioner



and other persons also to the post of Sweeper, Cook. Thereafter, the G.O was issued in the year 2022, vide G.O(Ms)No.49, Personnal and Administrative Reforms Department, dated 14.05.2002. According to which, the appointment to the post of Group-D categories like Sweeper and Cook has to be progressively outsourced and the direction to that effect has been given to all the District Level Officers and the relevant paragraph of the G.O is extracted hereunder which reads as follows:

"The public Department in Secretariat the Heads of Department and the District Collectors are entrusted with the responsibility of finalising the tenders for engaging one of more agencies to cater to the requirements of various officers in defined areas. This order is however, not applicable to the post of Office Assistant. While outsourcing the services ordered above a condition may be imposed in the lender to ensure that the existing NMR/consolidated Wage/Daily wage employees are to be given preference in employment by the Contractor to protect the interests of such persons."

10. In view of the above G.O, the petitioner cannot be appointed to the post of Cook or Sweeper though he has attended the interview on 05.02.2021, since the appointment has to be done only through outsourcing in all the Departments of the State. If any notification is issued by the District Collector,



Trichy District for outsourcing to the post of Sweeper and Cook and if the petitioner applies for the same, his case may be considered for the reason that he has already applied to the post pursuant to the letter of the Director of Adi Dravidar Welfare vide Na.Ka.No.Th.2/19411/2020, dated 13.01.2021 and also attended the interview on 05.02.2021 and he could not be appointed, since the model code of conduct was in force for the general election, 2021.

11. The writ petition stands disposed of with the above observations and directions. There shall be no order as to costs.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Secretary to Government,
Department of Adi Dravidar and Tribal Welfare,
Secretariat,
Fort St. George,
Chennai.

2.The Commissioner,
Directorate of Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai-600 005.



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3.The District Collector,
Trichy District,
Trichy.

4.The District Adi Dravidar and Tribal Welfare Officer,
District Adi Dravidar and Tribal Welfare Office,
Trichirappalli.

5.The Assistant Director,
District Employment Office,
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