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W.P.No.22668 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.22668 of 2012

and

M.P.Nos.1 & 2 of 2012 and 1 of 2013

P.Shanthi

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Social Welfare and Nutritious Meal Program Department,
Chennai – 600 009.

2. The Director,
Social Welfare Department,
Chepauk, Chennai – 600 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the first respondent in G.O (Ms) No.22 SW & NMP dated 03.03.2003 and quash para (2) insofar as it relates to the recruitment by transfer of service to the post of Child Development Project Officer and Zonal Project Nutritional Office from the Holders of the post of superintendents in the Tamil Nadu Ministerial Service in the Social Welfare Department and consequently direct the first respondent to promote the petitioner in the post of Child Development Project Officer and Zonal Project



Nutritional Officer as per the un-amended rules by transfer of service by placing them in the appropriate place in the Seniority List.

For Petitioner : Mr.R.Rengaramanujam

For Respondents : Mr.P.Ganesan,
Additional Government Pleader

ORDER

This writ petition has been filed by the sole petitioner, who was working as 'Supervisor, Grade-I' in Social Welfare and Nutritious Meal Programme Department of the State, challenging the amendment made to the ad-hoc rules governing the temporary post of 'Child Development Project Officer/ Zonal Project Nutrition Officer' through G.O (Ms) No.22, Social Welfare & Nutritious Meal Programme Department, dated 03.03.2003.

2. Through the impugned amendment, the ratio that is provided for filling up the post of Child Development Project Officer (CDPO) among three different categories in terms of ad-hoc rules issued in G.O.No.1251, Social Welfare Department, dated 24.07.1987, including the post of CDPO was altered. The post of CDPO can be filled up by three methods i.e., firstly by direct recruitment, secondly by recruitment by transfer from among the holders of the post of 'Assistant District Social Welfare Officer' or 'Superintendent working Women's Hostel' and thirdly, by recruitment by



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transfer from among the holders of the post of 'Superintendent in Tamil Nadu Ministerial Services in the Social Welfare Department. Originally, the ratio provided among the above three categories was 25%, 70% and 5% respectively. The said ratio was altered to 33.3%, 50% and 16.7% respectively for the above-said three categories.

3. As already noted above, the petitioner herein does not fall in any of the categories from which the post of CDPO can be filled in. Through the impugned amendment, the Government while altering the ratio, also provided the rotation cycle by which the post of CDPO should be filled in.

4. In terms of the original ad-hoc rules issued in G.O (Ms) No.1251, Social Welfare Department, dated 24.07.1987, the post of ' Supervisor, Grade-I', in which the petitioner was working, is not one of the feeder categories falling under any of the three categories from which the post of CDPO can be filled in. However, by virtue of a proviso being added to Rule 3(i) of the ad-hoc rules through G.O (Ms) No.323, Social Welfare and Nutritious Meals Programme Department, dated 14.12.1994, the post of 'Supervisor, Grade-I' was included in the feeder category by way of insertion



of a proviso. The said amendment made through G.O (Ms) No.323, Social Welfare and Nutritious Meals Programme Department, dated 14.12.1994, reads as under:-

“ii 70 percent by recruitment by transfer from among the holder of the post of Assistant District Social Welfare Officer or Superintendent, Working women's Hostel.”

Provided that if no qualified/ eligible and suitable person is available from the above posts, appointment to the posts shall be made from among the holder of the post of extension officer (Social Welfare) or Supervisor, Grade I or Instructress; and”

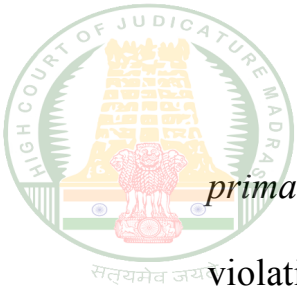
5. From the above, it is evident that the post of 'Supervisor, Grade-I' is not in the primary feeder categories, but it is only in the event of non-availability of the eligible and qualified persons under second category, the persons holding the post of 'Supervisor, Grade-I' can be considered for appointment to the post of CDPO. Thus, it is evident that the persons working in the post of 'Supervisor, Grade-I' can have a claim for consideration of their case only in the event of non-availability of qualified and suitable candidates from the three categories referred to herein above for filling up the post of CDPO. 70% of the posts earmarked for second category is now reduced to 50% by virtue of the impugned amendment. The petitioner



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in the elaborate affidavit filed in support of the writ petition, except stating that the ratio provided for second category is reduced drastically and the ratio provided for third category is increased, there is nothing that is indicated to show as to how the said amendment can be said to be arbitrary or illegal. It is not the case of the petitioner that the State lacks jurisdiction or power to amend the ad-hoc rules. It is also not the case of the petitioner that any of the fundamental rights of the petitioner are violated because of the impugned amendment. Further, it is also not the case of the petitioner that any of the vested right of the petitioner is taken away by virtue of the impugned amendment. Any law made by the legislature or an order issued by the executive is deemed to be the one issued in accordance with law and there is a legal presumption to that effect. In order to dispel such presumption, the petitioner has to make out a strong case falling within the parameters basing upon which a law made by the State can be interfered with by this court.

6. As already noted above, none of the grounds that are required to interfere with the law made by the State are even pleaded nor urged before this court. Merely because the State has chosen to alter the ratio does not mean that the same is arbitrary. It is only in case if the petitioner is able to



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prima facie show that the power exercised by the State is arbitrary and violative of any of the fundamental or legal rights of the petitioner, this court would call upon the respondent State to justify its action.

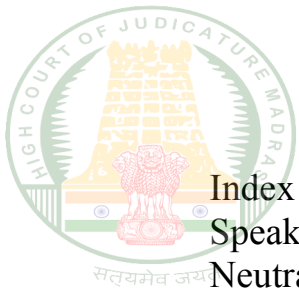
7. As already noted above, the petitioner herein failed to make out a *prima facie* case warranting interference of this court. Be that as it may, the petitioner was aged 49 years when the present writ petition was filed and by now, she must have already attained the age of superannuation and retired from service.

8. In the light of the above, this court does not find any merit in the writ petition warranting interference by this court, that too at this length of time.

9. In the light of the above, this writ petition is dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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To

1. The Secretary to Government of Tamil Nadu,
Social Welfare and Nutritious Meal Program Department,
Chennai – 600 009.
2. The Director,
Social Welfare Department,
Chepauk, Chennai – 600 005.



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MUMMINENI SUDHEER KUMAR, J.

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