



W.P.No.19270 of 2023

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7IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19270 of 2023
and W.M.P.No.18523 and 18526 of 2023

S.Sathish

...Petitioner

Vs

1.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai 600 005.

2.The Director,
Tribal Welfare Department,
Chepauk, Chennai 600 005.

3.The Collector,
Vellore District,
Vellore.

4.The District Adi Dravidar Welfare Officer,
Vellore District,
Vellore.

5.The Special Tahsildar (ADW)
Vellore, Vellore District.

...Respondents



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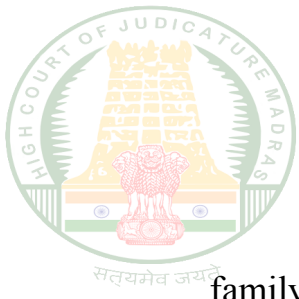
PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 3rd respondent in K3/17113/2018 dated 19.01.2023 and to quash the same and consequently, directing the respondents to allow the petitioner to continue to work in the post of Cook based on the order of appointment issued by the 4th respondent dated 11.11.2020 with all consequential and other attendant benefits.

For Petitioner : Mr. S.Nedunchezhiyan
For Respondents : Mrs.C.Meera Arumugam
Additional Government Pleader

ORDER

This writ petition has been filed to call for the records relating to the impugned order dated 19.01.2023 issued by the 3rd respondent in K3/17113/2018 and to quash the same and consequently direct the respondents to allow the petitioner to continue to work in the post of Cook based on the order of appointment issued by the 4th respondent date 11.11.2020 with all consequential and other attendant benefits.

2. The case of the petitioner is that the petitioner is hailing from poor family and he belongs to Hindu Adi Dravidar, classified as Scheduled Caste (SC) community. Due to indigent circumstances in his



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family, he studied upto 10th Std failed and he could not pursue his higher studies. The Adi Dravider and Tribal Welfare Department, conducted a selection to fill up the post of Cook in Adi Dravidar and Tribal Welfare Schools and Hostels. The selection was conducted in District level by the Selection Committee constituted as per G.O.Ms. No.53, Adi Dravidar and Tribal Welfare Department dated 14.08.2013. In so far as the Vellore District is concerned, the advertisement for recruitment to the post of Cook in Adi Dravidar and Tribal Welfare Schools and Hostels was created in the month of October 2019, as per the Press Release. According to the said advertisement, 112 vacancies have been notified for the post of Cook, by prescribing the eligibility condition as follows:

(i) Able to read and write Tamil

(ii) Priority will be given to SC/STs.

(iii) Priority will be given for Cook experience.

(iv) Age limit prescribed between 18 and 35.

(ii). Pursuant to the advertisement through Press Release, the petitioner has submitted his application for appointment to the post of Cook. The petitioner was issued with Call Letter to attend Certificate Verification to be conducted on 21.01.2020, and after verification of all



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the certificates viz., Community Certificate as well as the Educational qualification certificate, the petitioner was issued with an order of appointment to the post of Cook issued by the 4th respondent viz. the District Adi Dravidar and Tribal Welfare Officer, Vellore, vide Proceedings in Na.Ka. K1/17113/2018-12 dated 11.11.2020. Accordingly, the petitioner joined in the post of Cook in Government ADW Arts College Boys Hostel, Vellore, on 16.11.2020. Subsequently, he was transferred to the Government ADW ITI Boys Hostel, Vellore vide proceedings of the 4th respondent in Na.Ka.No.K1/3378/2021 dated 16.12.2021.

(iii). While so, the 3rd respondent District Collector issued the impugned order dated 19.01.2023, cancelling his appointment to the post of Cook and terminating his service that he was over aged on the date of advertisement for the post of Cook dated 01.10.2019, as he crossed the age of 35 years.

(iv). As per G.O Ms. No.53 dated 14.08.2013, framing guidelines for filling up the post of Cook, Sanitary worker etc. in Adi Dravidar and Tribal Welfare Department by constituting Selection Committee prescribing qualification in so far as age limit is concerned, it is stated to



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follow the rules in force. The selection is conducted based on GO.Ms. No.53 dated 14.08.2013 and the advertisement also does not carry any age limit. In so far as the petitioner is concerned, he registered his qualification in Employment Exchange on 28.12.2004. Therefore, he is entitled for one year age relaxation for the waiting period of one year for 3 years. Hence, the present writ petition.

3. Learned counsel for the petitioner would submit that the selection to the post of Cook in Vellore District was not conducted for more than a period of 10 years. Further, the Petitioner is also having an experience in cooking, aspiring appointment to the post of Cook, based on the educational qualification in ADW Department. Since the recruitment is not made for more than 10 years, inspite of vacancies arose for all these years, it remains to be a last opportunity for the petitioner to get an appointment. Moreover, the order of cancellation of the petitioner's appointment and termination of service issued by the 3rd respondent is in violation of law, as well as the principles of natural justice and failed to follow the procedure established by law. Hence, prays to allow the present writ petition.



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4. In support of his contention, the learned counsel for the petitioner relied upon the judgment of this Court in W.P.No.15474 of 2023 and etc., batch dated 21.07.2023, wherein, it has been held as follows:

".....6. A learned single Judge of Madurai Bench of this court while dealing with the similar issue in cases of K.Parvathy v. State of Tamil Nadu and others [W.P.(MD) No.15743 of 2022 etc. batch cases, by order dated 24.11.2022 has held thus:~

"9. The post of cook falls under Class 4 category 2 of Tamil Nadu Basic Service. As per Proviso 2 Rule 5 (i) of Tamil Nadu Basic Service, the age limit for candidates belonging to Scheduled Caste community would be 35 years of age on the date of appointment. Section 20(8) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 reads as follows:

"20.(8) The maximum age limit prescribed in the special rules shall not apply-

(i) to the appointment of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Class or Denotified Communities or of destitute widows of all castes to a post included in a service for which the special rules prescribe a qualification lower than a degree of any University recognized by the University



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Grants Commission, if such candidate possesses a general educational qualification which is higher than that referred to in sub-section (1) and he is otherwise qualified for appointment; or

(ii) to the appointment to a post included in a service of a candidate belonging to any of the Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes and Denotified Communities or of destitute widows of all castes who holds a degree of any University recognized by the University Grants Commission, if the degree he holds is not lower than the degree prescribed in the special rules for appointment to such post and if he is otherwise qualified for appointment:

Provided that, for direct recruitment to a post included in a service for which the minimum qualification required is not higher than the minimum general educational qualification, the age limit prescribed shall be increased by five years in respect of candidates belonging to Scheduled Castes or Scheduled Tribes or in respect of destitute widows of all castes, who do not possess a general educational qualification, which is higher than the minimum general educational qualification."

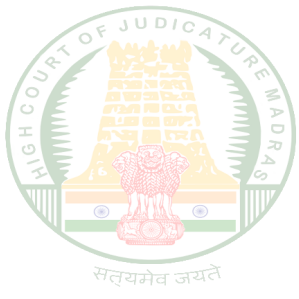


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10. Proviso to Section 20(8)(2) gives further extension by five years for Scheduled Caste candidates who do not possess general education qualification that is higher than the minimum general education qualification. It is not in dispute that the minimum education qualification is pass in 10th Standard. The minimum qualification prescribed for the post of cook is only 10th Standard fail. Therefore, it is not higher than the minimum general education qualification. The petitioners herein are belonging to the Scheduled Caste community. Therefore, the age limit has to be increased by 5 more years. I have already noted that the maximum age limit prescribed in the Special Rules for general candidate is 30. The Special Rules themselves further enhance the limit by 5 years in favour of Schedule Caste candidates. The learned Additional Advocate General would state that since Scheduled Caste candidates have already been given increase by 5 years in Special Rules, they cannot once again claim under Section 20(8) of 2016 Act. In my view, the beneficial provision meant for the benefit of Scheduled Caste candidates should not be given restrictive interpretation. Under the Special Rules, the maximum age prescribed for Scheduled Caste candidates will be 35 years. By applying the aforesaid proviso, I hold that the age limit prescribed for the



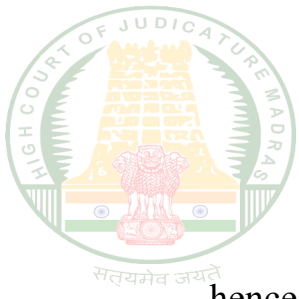
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petitioners will be 40."

5. The learned Additional Government pleader filed the counter affidavit on behalf of the 4th respondent wherein, it has been stated that the writ petitioner has passed 10th Std and crossed the age of 35 years at the time of appointment. Hence, the 3rd respondent/District Collector, Vellore vide in the proceedings No. K3/17113/2018 dated 19.01.2023 cancelled the order of appointment of the Petitioner.

(ii). In G.O.No. 21, dated 02.02.2000, Labour and Employment (N2) Department, it is clearly mentioned that the highest age qualification for the post of Cook is fixed upto 35 years. In this case, the petitioner had crossed the age of 36 years 3 months 28 days at the time of notification published on 01.10.2019. (petitioner's date of birth is 03.06.1983 as per school records). Hence, it is clear that the petitioner crossed the age limit fixed by the Government and the petitioner has not fulfilled the age limit and also the educational qualification mentioned in the Government Orders. Further, at the time of paper publication, the writ petitioner have passed 10th Std and also crossed the age limit,



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hence, the 3rd respondent/District Collector, Vellore cancelled the appointment of writ petitioner as cook vide in the proceedings No. K3/17113/2018 dated 19.01.2023. The Government has instructed all the department to follow the G.O. strictly during appointments. Hence, by following the aforesaid G.O, the impugned order has been passed, which is in order. Hence, prays to dismiss the present writ petition.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7. Admittedly, the petitioner has been appointed to the post of Cook by an order of the 4th respondent dated 11.11.2020. Thereafter, the petitioner joined the post of Cook on 16.11.2020 at Government ADW Arts College Boys Hostel, Vellore and transferred to Government ADW ITI Boys Hostel, Vellore vide order dated 16.12.2021. On 19.01.2023, the 3rd respondent/District Collector passed the impugned order cancelling the appointment of the petitioner as cook and terminated his service. It is pertinent to note that the opportunity of hearing has not been provided to the petitioner before passing the order of termination. In the



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advertisement dated 01.10.2019 calling for the post of Cook and scavenger, the 3rd respondent/District Collector has prescribed the qualification that the candidates should be able to read and write the Tamil Language; 10th qualification and the age limit is 35 years and relaxation is applicable as per the Government norms and priority to the candidates belonging to SC/ST community, with cooking experience and the persons belonging to Vellore District.

8. In the case on hand, the petitioner has submitted his application for the post of cook and on the date of application, the petitioner is aged about 36 years 2 months and 17 days, the respondent while scrutinising the application of the petitioner ought to have rejected the application of the petitioner at that stage itself. After appointing the petitioner to the post of cook and the petitioner served in the post of cook for more than a period of two years, categorically contended that he had been arbitrarily and illegally terminated. He also relied upon the Government Rules and Government Orders to substantiate his claim and he has been appointed as cook only in accordance with the said rules/Government Orders. Moreover, no reasons have been given in the impugned order by which



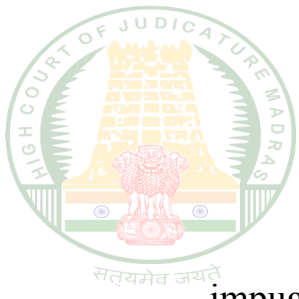
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the service of the petitioner has been terminated and no opportunity of hearing was granted to him.

9. As per the orders of this Court in W.P.No.15474 of 2023 and etc., batch dated 21.07.2023 *supra*, under the Special Rules, the maximum age limit prescribed for Scheduled Caste candidates will be 35 years and by applying the aforesaid proviso, the age limit prescribed for the petitioner can be considered upto 40 years. Hence, termination of the petitioner for over age cannot be sustained in the eye of law.

10. In the result, this Court is of the view that as per the Special Rules, the age of the petitioner is well within the age limit and the petitioner is able to read and write Tamil as per the notification issued by the respondents. Further, the selection of the petitioner to the post of Cook was made through proper channels by following due procedures and Rules and the petitioner was given an appointment. Therefore, it is not appropriate for the District Collector to terminate the petitioner from his service on the technical grounds and hence, the petitioner has to be reinstated into service. Accordingly, the writ petition is allowed and the



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impugned order dated 19.01.2023 is set aside. The 3rd respondent is directed to pass an order of reinstatement of the petitioner without any backwages from the date of his termination. The said exercised shall be done within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

04.03.2025
(1/3)

msv

Index:Yes/No

Internet:yes/No

Speaking order/Non-speaking order

To

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Adi Dravidar Welfare Department,
Chepauk, Chennai 600 005.

2.The Director,
Tribal Welfare Department,
Chepauk, Chennai 600 005.

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V.BHAVANI SUBBAROYAN,J.

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