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W.A.No.385 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **G. ARUL MURUGAN**

W.A.No. 385 of 2025
and CMP Nos.3128 & 3129 of 2025

1. The Secretary to Government,
Adi Dravidar Welfare Department,
St. George Fort, Secretariat, Chennai.
2. The Director,
District Adi Dravidar and Tribal Welfare Officer,
Chepauk, Chennai 600 005.
3. The District Collector,
Ariyalur District, Ariyalur.
4. The District Adi Dravidar and
Tribal Welfare Officer,
O/o. District Adi Dravidar and Tribal
Welfare Office, Ariyalur District.

...Appellants

Vs.

Mahadevi

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order dated 21.07.2023 passed in WP No.15492 of 2023.

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For Appellant : Mr.P.Kumaresan
Additional Advocate General,
Asst. by Mr.P.Ananda Kumar,
Government Advocate

For Respondent : Mr.N.Balasubramanian

J U D G M E N T

*(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)*

The State is on appeal against the orders of the writ Court quashing the cancellation of appointment of the respondent in the Writ Appeal, on the ground that the respondent was over aged on the date of appointment and on the ground that the respondent has produced a false Transfer Certificate.

2. The respondent was appointed as Cook in the hostels attached to the Adi-dravidar and Tribal Welfare Department. The appointment order was issued on 26.02.2021. The orders impugned in the Writ Petitions came to be passed on 19.04.2023. The writ Court had found that the respondents were not over aged, on a reading of Rule 5 of the Special Rules for Tamil Nadu Basic Service read with Section 20(8) of the Tamil Nadu Government

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Servants (Conditions of Service) Act, 2016.

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3. It is not in dispute that the post to which the respondent was appointed are covered by the Special Rules for Tamil Nadu Basic Service. For the post of 'Cook' the educational qualification is that a person should be able to read and write Tamil. Rule 5(1) prescribes an age-limit of 30 years on the date of appointment. Proviso to Rule 5(1) grants an additional 5 years to candidates who belong to Scheduled Castes or Scheduled Tribes. Therefore, the upper age limit as per the Special Rules for Tamil Nadu Basic Service is 35 years. Admittedly, the respondent was aged above 35 years on the date of her appointment. Therefore, the order impugned came to be passed cancelling her appointment. The writ Court found that proviso to sub-section (8) of Section 20 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 would apply and there would be an extension of another 5 years for the post to which the respondents had been appointed. The first proviso to sub-section (8) of Section 20 reads as follows:-

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



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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;

4. Rule 5(1) of the Special Rules for Tamil Nadu Basic Service, which deals with 'Age' reads as follows:-

(1) Age: Candidates for appointment by direct recruitment to any of the posts other than those in Classes I and II must not have completed 30 years of age on the date of appointment.

Explanation:-

For the purpose of the sub-rule, the age limit, in the case of candidate appointed through Employment Exchange, be reckoned from the date of sponsoring of the candidate by the Employment Exchange concerned for appointment to the post.

Provided that a candidate belonging to the Scheduled Caste or the Scheduled Tribe shall be eligible for appointment to the above classes if he has not completed 35 years of age on the date of appointment.

Provided further that the age limit aforesaid shall not apply to the appointment of Ex-servicemen to any category.



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**Provided also that the age limit shall not apply to the appointment made to this service from among the employees borne on the contingent establishment in the same department brought into regular establishment on completion of five years of service.*

**(Inserted in G.O.Ms.No.677, P&AR (Per.F)Dept., dt.1.7.85)*

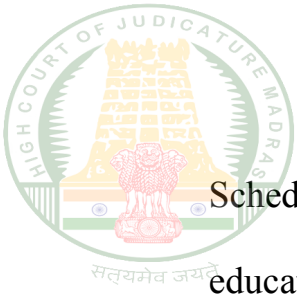
Provided also that the age-limit shall not apply to appointment by direct recruitment from among Process Servers and Process Amins of the Revenue Department.

Provided also that the age-limit aforesaid shall not apply in the case of appointment of any person transferred from a local fund or municipal institution in consequence of the transfer of such institution to the control of the State Government.

^Provided also that the age-limit aforesaid shall not apply in the case of appointment of Widows to the posts of Ayahs, Sweepers, Sanitary Workers, Hospital Servants, Cooks, Kitchen Attendants and Water Women in Medical Institutions.

(Inserted in G.O.Ms.No.1232, P&AR (Per.F), dept. dt.31.12.82, w.e.f.10.7.81)

5. As per Rule 5(1), the upper age-limit for candidates belonging to

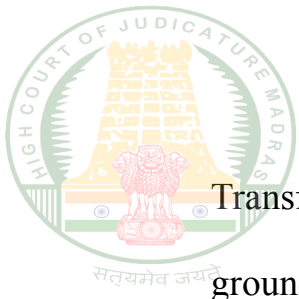


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Scheduled Caste or Scheduled Tribe would be 35 years. The required educational qualification for the post to which the respondent is appointed is that the person applying should know to read and write Tamil. The qualification is not higher than the minimum general educational qualification prescribed in Schedule-III to the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is a pass in Secondary School Leave Certificate examination that is equivalent to X Standard.

6. It is not the case of the appellants that the respondent possess an educational qualification which is higher than the minimum general educational qualification. Therefore, in terms of proviso to Sub-section (8) of Section 20 extracted *supra*, the respondent would be entitled to an addition of another 5 years, thereby taking the maximum age limit to 40 years. Therefore, the main ground of challenge cannot be sustained. The learned Single Judge has only taken note of that fact and held that the orders cancelling appointment on the ground that the respondents were over-aged cannot be sustained.

7. An additional reason is given to the effect that the Transfer Certificate produced by her is not a genuine one. The production of the



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Transfer Certificate, which is not a mandatory requirement, cannot be a ground for dis-qualifying or cancelling the appointment. A Division Bench of this Court in ***C.Govindan Vs.Inspector General and others*** reported in ***2019 SCC OnLine Mad 7727*** has held as follows:-

5. *The Learned Counsel for the appellant strenuously urged that the post of Sanitary Worker is shown as category 8 in Class IV of the Special Rules for Tamil Nadu Basic Service and the educational qualification of candidates for appointment through direct recruitment to any of the categories in Class IV is that he must be able to read and write in Tamil as required under Rule 5(2)(aa) of the Special Rules for Tamil Nadu Basic Service and that the stipulation of pass in VIII standard was only in respect of the posts in Class I, II and III and as such, the Appellant had been wrongfully removed from service by the Disciplinary Authority whose order was erroneously confirmed by the Appellant Authority. In support of the said contention, reliance is placed on the decisions of this Court in P. Mahendran v. Chief Engineer (Order dated 20.06.2003 in W.P. No. 6932 of 2002), N. Sekar v. Director of Medical Education, [(2009) 4 CTC 158] and the Division Bench of this Court in E. Rengammal v. Superintendent (Order dated 25.01.2018 in W.A. No. 1085 of 2016) in which one of us (K.K. Sasidharan, J.) is a party.*

6. *We find that there is substantial force in the aforesaid*



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contention raised on behalf of the Appellant inasmuch as the production of the bogus certificate showing that the Appellant had passed VIII standard was inconsequential. The educational qualification prescribed for the instant post was that the candidate must be able to read and write Tamil. It is not the case of the Respondents that the Appellant was not able to read and write Tamil.

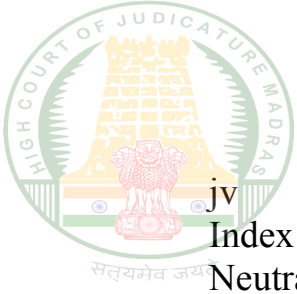
8. The above judgment will squarely apply to the case on hand.

Therefore, we do not find any reason to fault the writ Court for having allowed the Writ Petitions.

9. The Writ Appeal therefore fails, and it is accordingly **dismissed**.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)
21.02.2025



jv

Index : No

Neutral Citation : No

Speaking order

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To

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Adi Dravidar Welfare Department,
St. George Fort, Secretariat, Chennai.
2. The Director,
District Adi Dravidar and Tribal Welfare Officer,
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O/o. District Adi Dravidar and Tribal
Welfare Office, Ariyalur District.

R.SUBRAMANIAN, J.
and
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jv



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