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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.29905 of 2024
and
W.M.P.No.29905 of 2024

Munirathinam

.. Petitioner

Vs.

1.The Secretary to Government
Adi Dravidar and Tribal Welfare Department
Fort St. George,
Chennai – 600 009.

2.The Director of Adi-Dravidar Welfare
Chepauk,
Chennai – 600 005.

3.The District Collector
Dharmapuri District
Dharmapuri.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in Na.Ka.6892-2/2022/Ko-2 dated 26.09.2024 and to quash the same and consequently direct the 1st respondent to pass necessary order on the representation dated 18.09.2024 for granting age relaxation to the petitioner to continue in the post of “Cook”.



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For Petitioner .. Mr.S.Kamadevan

For R1 to R3 .. Mr.V.Nanmaran, AGP

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the 3rd respondent dated 26.09.2024 and to quash the same and direct the 1st respondent to pass necessary orders on the representation given by the petitioner on 18.09.2024. The petitioner seeks relaxation of the age of the petitioner to continue in the post of 'Cook'.

2.The petitioner belong to Schedule Caste community. She had completed her 12th standard. She had registered her name in the Employment Exchange. She was then recruited as Cook and appointed in the Government Adi-Dravidar Welfare Residential Middle School, Mannur. Thereafter, the appointment was cancelled, since it is contended that she had crossed the age of 35 years. This Writ Petition has been filed questioning that particular cancellation of the order.



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3. The issue is no longer *res integra*. The Division Bench of this Court in a batch of writ appeal in ***W.A.No.3809 of 2024 and batch, the Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai Vs. K.Manonmai***, had held as follows:

“2. The State is on appeal against the orders of the writ Court quashing the cancellation of appointment of the respondents in all these Writ Appeals, on the ground that the respondents were over aged on the date of appointment and on the ground that the respondent in W.A.No.3809 of 2024 has produced a false Transfer Certificate.

3. All the respondents were appointed as Cooks in the hostels attached to the Adi-dravidar and Tribal Welfare Department. The appointment orders were 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 Servants (Conditions of Service) Act, 2016.

4. It is not in dispute that the posts to which the respondents were 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, all the respondents were aged above 35 years on the date of their appointments. Therefore, the order impugned came to be passed cancelling their appointments. 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 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;



5. 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.

**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.,*



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dt.1.7.85)

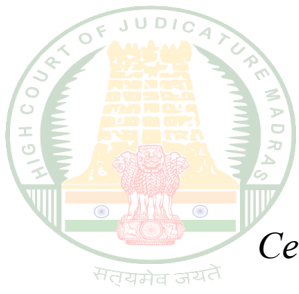
Provided also that the age-limit shall not apply to appointment by direct recruitment from among Process Servers and Process Amins of the Revenue Department.

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)

6. As per Rule 5(1), the upper age-limit for candidates belonging to Scheduled Caster or Scheduled Tribe would be 35 years. The required educational qualification for the post to which the respondents are 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.

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7. It is not the case of the appellants that the respondents 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, all these candidates 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.

8. In so far as the respondent in W.P.No.3809 of 2024 is concerned, an additional reason is given to the effect that the Transfer Certificate produced by her is not a genuine one. Prior to the order dated 19.04.2023 we find that a show cause notice was issued to the respondent in W.P.No.3809 of 2024 and she had sent a reply stating that her mother, who is an illiterate has wrongly included the certificate. The production of the Transfer Certificate, which is not a mandatory requirement, cannot be a ground for disqualifying 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 contention raised on behalf of the Appellant inasmuch as the production of the bogus certificate showing that the Appellant had passed VIII standard was*



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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.

9. The above judgment will squarely apply to the case on hand. In any event, in the case on hand, the impugned order dated 19.04.2023 does not reflect that the Authority had examined the explanation submitted by the respondent and had rejected it. Therefore, we do not find any reason to fault the writ Court for having allowed the Writ Petitions.

4.It is contended on behalf of the respondents that a Special Leave Petition had been filed before the Hon'ble Supreme Court, but however, there is no stay. In the counter affidavit, it had been stated as follows:

“10.I respectfully submitted that all the averments made by the petitioner in the grounds mentioned in the petition are denied as follows:

i).The contention raised in Paragraph (A) of the affidavit are erroneous and untenable. The petitioner's appointment was irregular from its inception due to a clear violation of the prescribed age norms.

ii).The contentions raised in Paragraph (B) are factually incorrect. The petitioner is misconstruing the provisions of G.O.Ms.No.21, Labour and Employment Department, dated



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02.02.2000. *It is respectfully submitted that the petitioner is not entitled to age relaxation under this Government order. The upper age limit of 35 years for the post is absolute, and no relaxation is permissible once the candidate exceeds this limit. The said Government Order applies only to candidates registering with the employment exchange for posts requiring qualifications below SSLC. In this case, the petitioner possesses an SSLC qualification and had registered the same with the employment office. Even assuming, without conceding, that the Government Order were applicable, the permissible relaxation period would have expired by the petitioner's appointment date, i.e., 18.02.2021. The petitioner, born on 12.05.1983, was already 40 years old at the time of appointment and would have exceeded the age limit even with a two-year relaxation. Hence, under no reasonable interpretation can she claim the benefit of this Government Order. Furthermore, the recruitment notification and Rule 5(1) of the Tamil Nadu Basic Service Rules prescribe 35 years as the absolute age limit, irrespective of community. The petitioner's claim that she properly disclosed her age is controverted by official records.*

5. But however, the reasoning of the Division bench would directly apply to the facts of this case. The impugned order is set aside. The respondents are directed to appoint the petitioner to the post of Cook with



continuity of service and with monetary benefits. Necessary orders in this regard may be passed within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

02.04.2025

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Index :Yes/No

Internet :Yes/No

Neutral Citation :Yes/No

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C.V.KARTHIKEYAN,J.

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