

(2011) 02 MAD CK 0411

In the Madras High Court

Case No : Writ Petition No. 36853 of 2006

Smt. T. Mangammal

APPELLANT

Vs

The District Collector, (Noon-meal Division), The Block
Development Officer, (Rural Development) and Smt.
Tamilarasi

RESPONDENT

Date of Decision : 18-02-2011

Acts Referred:

Citation : (2011) 02 MAD CK 0411

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

**Advocate : P.M. Duraiswamy, for the Appellant; S. Gopinathan, AGP for R1 and
I. Paranthaman, for R2, for the Respondent**

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This writ petition has been filed praying that this Court may be pleased to issue a Writ of Certiorarified Mandamus to call for and quash the proceedings of the third Respondent, dated 24.2.2006, and the consequential order of the first Respondent, dated 24.2.2006, and to direct the first Respondent to appoint the Petitioner, as a Noon-Meal Organizer, at the Noon Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri District.

2. The Petitioner has stated that she is a widow with two children. Her husband Thimmarayan had died, on 23.11.2000. The Petitioner had failed in her 10th standard and she could not pursue her further studies. The Petitioner is maintaining her family with the support of her parents, who are agricultural laborers.

3. The Petitioner has further stated that, having come to know about the existence of a vacancy in the post of Noon-Meal Organizer, at the Noon Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union,

Krishnagiri, she had made an application to the first Respondent, on 9.9.2005. The Petitioner ought to have been selected, since, she had all the necessary qualifications for being appointed as a Noon-Meal Organizer, as per the Government Orders, in G.O. Ms. No. 135, Social Welfare and Noon-Meal Scheme Department, dated 17.6.2005 and G.O. Ms. No. 203, Social Welfare and Noon-Meal Scheme (Social Welfare-7) Department, dated 19.8.2005.

4. The Petitioner has further stated that the selection committee, headed by the first Respondent, had selected the third Respondent, instead of selecting the Petitioner, even though the Petitioner was better qualified. The Petitioner ought to have been given preference, as she was a widow. However, the third Respondent had been selected, for being appointed as a Noon Meal Organizer, even though she is not a widow. The third Respondent had been selected only on the basis that she is from the same hamlet in which the Noon-Meal Centre is located.

5. The learned Counsel appearing on behalf of the Petitioner had submitted that the selection of the third Respondent is arbitrary and illegal. He had submitted that the Petitioner ought to have been selected on preferential basis, as she was widow, having all the other necessary qualifications for being selected as the Noon-Meal Organizer. Instead, the third Respondent had been selected overlooking the claims of the Petitioner, only for the reason that she is from the same village, where the Noon-Meal Centre is situated. Such selection has been held to be invalid, by an order of this Court, dated 4.3.2010, made in W.P. No. 4451 of 2010, (R. Muniammal V. The District Collector, Cuddalore District and two Ors.).

6. He had also submitted that the guidelines applicable to the selection of a Noon-Meal Organizer make it clear that widows should be given preference over the others, who may also be eligible for such appointments. He had also submitted that in the order of appointment, dated 24.2.2006, issued in favor of the third Respondent, she had been asked to produce a certificate showing that she is a widow. However, the third Respondent had not produced the necessary certificate, as she was, in fact, not a widow. Therefore, the order of the first Respondent, dated 24.2.2006, appointing the third Respondent as the Noon-Meal Organizer, at the Noon-Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri, overlooking the valid claims of the Petitioner, is arbitrary and invalid in the eye of law.

7. In the counter affidavit filed on behalf of the Respondents, it has been stated that the guidelines issued in G.O. Ms. No. 135, Social Welfare and Noon-Meal Scheme Department, dated 17.6.2005, had been followed by the selection committee, headed by the first Respondent, in selecting and appointing the third Respondent, as a Noon-Meal Organizer of the Noon Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri. It is clear that the local candidates, who are the residents of the village, wherein the Noon-Meal Centre is located, will be given first preference, for being selected and

appointed as a Noon-Meal Organizer. A candidate may claim preference in being selected as a Noon-Meal Organizer, if she is a widow, only in certain circumstances, when all the other qualifications are equal amongst the other eligible candidates. The post of Noon-Meal Organizer, at the Noon-Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri, is not a post reserved for widows.

8. In such circumstances, it is not open to the Petitioner to claim any preference for such appointment, only on the ground that she is a widow. Even though this Court might have passed an order, in W.P. No. 4451 of 2010, holding that the place of residence cannot be the sole basis on which the selection should be made, the said order had come into being, only, on 4.3.2010, whereas the appointment of the third Respondent had been made, on 24.2.2006. Further, the appointment of the third Respondent was also based on other factors, as per the guidelines issued for making such appointments. As such, the writ petition filed by the Petitioner is devoid of merits and therefore, it is liable to be dismissed.

9. In view of the submissions made by the learned Counsels appearing on behalf of the Petitioner, as well as the Respondents and on a perusal of the records available, this Court is of the considered view that the Petitioner has not shown sufficient cause or reason to grant the relief, as prayed for by the Petitioner, in the present writ petition. The Petitioner has not been in a position to show that the third Respondent had been appointed, as the Noon-Meal Organizer, only on the basis that she is a widow. The claim of the Petitioner that she should have been selected and appointed as the Noon-Meal Organizer, for the Noon-Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri, instead of the third Respondent, cannot be countenanced.

10. The Petitioner, who is said to be a widow, cannot claim priority over the other candidates, including the third Respondent, for being selected as a Noon-Meal Organizer. Preference may be given to widows at the time of the selection, if all other qualifications are on par with the other eligible for such selection. At the time of the selection of the third Petitioner, as a Noon-Meal Organizer of the Noon-Meal Centre, Chavadiyur Panchayat Union Primary School, Mathur Panchayat Union, Krishnagiri, the Government Order, in G.O. Ms. No. 203, Social Welfare and Noon Meal Scheme (Social Welfare-7) Department, dated 19.8.2005, had not been held to be invalid, in so far as it relates to the appointment of Noon-Meal Organizers on the basis of residence. Even in the said order of this Court, dated 4.3.2010, made in W.P. No. 4451 of 2010, it has been stated that if the post is filled up by the selection process, preceded by an interview, and if the authority concerned comes to a conclusion that if the two candidates are approximately equal in their qualifications, in such cases the distant rule can also be pressed into service.

11. As such, this Court does not find sufficient grounds to interfere with the impugned order of the first Respondent, dated 24.2.2006. As the writ petition is devoid of merits, it is liable to be dismissed. Hence, it is dismissed. No costs.

However, in view of the fact that the Petitioner, who is a said to be a widow, having young children and living below the poverty line, without sufficient financial support, the first Respondent is directed to consider the case of the Petitioner for being appointed in any one of the vacancies in the nearby areas, if she is found to be otherwise qualified, as per the procedures established by law.