



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A. (MD) Nos.756 and 1380 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

W.A. (MD) No.756 of 2013:

1.The Director,
Social Welfare Department,
Chepauk, Chennai.

2.The District Social Welfare Officer,
Karur.

3.The Commissioner,
Thanthoni Panchayat Union, Karur.

4.The Secretary,
Board of Secondary Education,
College Road, Chennai.

... Appellants/Respondents

Vs.

Ponnuthai

... Respondent/Petitioner

W.A. (MD) No.1380 of 2013:

1.The Director,
Social Welfare Department,
Chepauk, Chennai.

2.The District Social Welfare Officer,
Theni District, Theni.

... Appellants/Rspondents

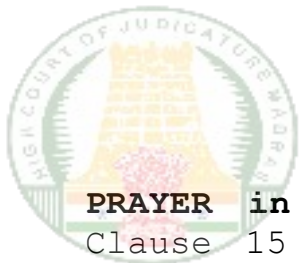
Vs.

J.Meerabai

... Respondent/Petitioner

Prayer in WA(MD) . 756/ 2013:

<https://hcservices.ecourts.gov.in/hcservices/>
This Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 01.10.2012 made in W.P.(MD) No.3023 of 2011 and allow the writ Appeal.



PRAYER in WA(MD). 1380/ 2013: The Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 29.09.2010 made in W.P.(MD)No.7106 of 2008.

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Prayer in WP(MD). 3023/ 2011 :

This Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue an order or direction in the nature of a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent by his proceeding in Na.Ka.No.52784/Nir 5 - 3 / 2003 dated 24.08.2007 and quash the same and direct the 1st Respondent to consider that this petitioner had deem to have retired from 29.02.2008 and pay all terminal benefits.

Prayer in WP(MD). 7106/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order of Removed from service dated 31/01/2008 passed by the 1st respondnet in his proceedigns Proc. No. 5968/admn 5-3/2007 and the same was served through the 2nd respondnet in his proceedings Me.Mu. No. 1144/A1/07 dated 11/02/2008 and quash the same as illegal and directing the respondents to allow me to retire from service and to pay the consequential benefits.

For Appellants : Mr.C.Selvaraj, Spl.G.P.

For Respondents : Mr.G.R.Swaminathan for
Mr.K.P.S.Palanivelrajan

COMMON JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN,J.)

These Writ Appeals have been preferred challenging the order made in W.P.(MD)Nos.3023 of 2011 and 7106 of 2008 passed by the Learned Single Judge, whereby, the Writ petitions were allowed and the impugned orders were set aside and the respondents in the Writ petitions were directed to compute the retirement benefits due and payable to the respondents / Writ petitioners and pay the same to them within a period of 12 weeks from the date of receipt of a copy of the order.

2.Heard the learned Special Government Pleader appearing for the appellants as well as the learned counsel appearing for the respondents.

3.It is an admitted fact that the respondent in W.A.(MD) No.756 of 2013 joined as Children Welfare Organizer (Bala Sevika) services, courts, boy in/hcservices/ and worked since 09.04.1973. The next promotional post was Grama Sevika and she was also promoted as



Grama Sevika from the cadre of Bala Sevika as she possessed the requisite qualification of S.S.L.C. Having perused the S.S.L.C. certificate, she was promoted as Rural Welfare Officer (Woman) from 07.07.1995 on wards. The respondent in W.A.(MD)No.1380 of 2013 joined as Bala Sevika under the Department of Social Welfare on 21.08.1972. As she possessed the requisite qualification of S.S.L.C., she was promoted as Rural Welfare Officer (Woman).

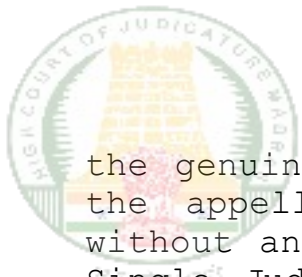
4.The allegation of the appellants is that the respondents had produced bogus S.S.L.C. certificates and obtained their promotion and hence charge memos were issued under Rule 17-A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, stating that S.S.L.C. certificates produced by the respondents were found forged documents.

5.It is also not in dispute that the claim of the respondents was that they had produced only original certificates. Though it was decided by appellants that the respondents had produced forged documents, the Learned Single Judge by the impugned order held that the plea of the appellants / respondents could not be accepted and it is further found that there was no reasonable opportunity given to the respondents / petitioners.

6.As contended by the learned counsel appearing for the respondents / petitioners, the burden is upon the employer, who are the appellants herein since they had considered the original S.S.L.C. certificate produced by the respondents / Writ petitioner and promoted them subsequently, raised a plea that the respondents had produced false or fabricated certificates for the purpose of getting promotion, the respondents here in were examined and there is no contra evidence on the side of the appellants to show that false or fabricated certificates were produced by the respondents / petitioners in getting their promotion.

7.Learned Single Judge has viewed in the impugned orders that there is no proper compliance for the Constitutional mandate as the respondents are entitled for the protection under Article 311 of the Constitution of India and therefore, the appellants are not empowered to retain the retirement benefits payable to the respondents.

8.It is not known as to how could responsible officer of the appellants who verified the certificates produced by the respondents herein and after having accepted the genuineness of the S.S.L.C. Certificates, promoted the respondents as Rural Social Welfare Officers (Women) and suddenly say that the documents produced by the respondents / Writ petitioners were forged. They cannot say that without verifying the genuineness of the certificates, the appellants could not have given promotion to the respondents. Similarly, after considering



the genuineness of the certificate and promoting the respondents, the appellants cannot say that the documents forged documents without any legally acceptable evidence. As found by the Learned Single Judge, the respondents had produced S.S.L.C. certificates for the purpose of getting promotion in the year 1995 and 1993 respectively, show cause notices were issued by the appellants / respondents only in the year 2003 and 2008 respectively, for the reason best known to the appellants / respondents and the respondents were dismissed from service prior to their retirement. Conducting enquiry for so many years and dismissing a person stating that the certificates were forged documents after a number of years and deciding the same as forged documents without any acceptable evidence would not be legally sustainable to justify the order of dismissal by the respondents.

9. Having gone through the impugned orders passed against the respondents / Writ petitioners, we are of the considered view that there was only unreasonable mental agony caused to the respondents / Writ petitioners and there is no legal ground available to interfere with the impugned order passed by the Learned Single Judge and hence, the Writ Appeals are liable to be dismissed.

10. In the result, the Writ Appeals are dismissed. No costs. Consequently, connected M.Ps. are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. THE DIRECTOR, SOCIAL WELFARE DEPARTMENT, CHEPAUK, CHENNAI

2. THE DISTRICT SOCIAL WELFARE OFFICER, KARUR

3. THE COMMISSIONER, THANTHONI PANCHAYAT UNION, KARUR

4. THE SECRETARY, BOARD OF SECONDARY EDUCATION, COLLEGE ROAD, CHENNAI

5. THE DISTRICT SOCIAL WELFARE OFFICER, THENI DISTRICT, THENI

+1cc to Mr.KPS.Palanivelrajan, Advocate Sr.No.6750

+1cc to Mr.K.Appadurai, Advocate Sr.No.6512

+4cc to spl.Government pleader, Advocate Sr.No.6610,6790,6611,6791

nbj

AA/17.04.2015/4p-12c/

W.A. (MD) Nos.756 and 1380 of 2013

11.02.2015