

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

C O R A M:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.1675 of 2015

Sivakami

...

Appellant

Vs

1. The District Collector,
Krishnagiri.

2. The Panchayat Union Commissioner,
Kaveripattinam,
Krishnagiri.

3. The Chairman,
Kaveripattinam Panchayat Union,
Kaveripattinam,
Krishnagiri District.

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Respondents

Prayer:-Appeal filed under Clause 15 of Letters Patent to set aside the order dated 21.07.2015 passed in W.P. No. 33323 of 2012. Writ Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari Mandamus to Call for the records relating to the orders in (i) Pro.Na.Ka. No.13921/2012/X2 dated 12.9.2012 of the first respondent and (ii) Endt. No.2113/ 2009/A6 dated 13.9.2012 on No.(1) and (2) quash the same and to issue consequential directions to the respondents to reinstate the petitioner in service with all consequential benefits.

For appellant : Mr. R. Neelakandan
for M/s. C. Mahendran

For respondents : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader - R1 to R3

J U D G M E N T

(Delivered by SATISH K. AGNIHOTRI,J.,)

With the consent of the learned counsel for the parties,
this writ appeal is taken up for final disposal.

2 For the sake of brevity, clarity and convenience, the parties are referred to as per their litigative status in the instant intra-Court appeal.

3 Questioning the legality and validity of the termination order dated 12th September, 2012, passed by the first respondent, the appellant filed the instant writ petition. On 13th December, 2012, while issuing notice, the termination order dated 12th September, 2012 was stayed. The effect of the stay was permitting the appellant to continue in employment. Finally, on 21st July, 2015, the order of termination passed by the first respondent was quashed on the ground that the same was passed without any notice or conducting enquiry. The appellant claiming monetary benefits from the date of the interim order passed by the learned Single Judge, till date, has come up with the instant intra-Court appeal.

4 The second respondent/Panchayat Union Commissioner had filed counter affidavit in response stating that the appellant has been working as a Cook Assistant in the Government Higher Secondary School, Krishnagiri since 01 April, 2014 and as such, she is entitled to salary, which will be payable only from the month subsequent to exoneration.

5 Learned counsel appearing for the appellant submits that the appellant is entitled to salary immediately after grant of interim stay. If the appellant was prevented by the management from performing her duty, that amounts to contempt of the Court's order dated 12th September 2012.

6 It is not the case of the respondents that the appellant has not turned up to join duty, despite notice calling upon her to join duty. In the case on hand, where the termination has been stayed, as a consequence, the appellant is competent and entitled to continue in service with full salary. It is found that the appellant is working till date as a Cook Assistant. Thus, the appellant is entitled to salary from the date of the interim order i.e. 12th September, 2012, till date. The payment of salary shall not be subject to the final outcome of the proposed enquiry as we are informed that fresh charge sheet has been issued.

With the aforesaid observation and direction, this writ appeal stands disposed of. No costs.
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-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Krishnagiri.
2. The Panchayat Union Commissioner,
Kaveripattinam,
Krishnagiri.
3. The Chairman,
Kaveripattinam Panchayat Union,
Kaveripattinam,
Krishnagiri District.

+ 1 cc to Govt.Pleader SR 7839

+ 2 ccs to Mr.C.Mahendran, Advocate SR 1097

vsn(co)
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W.A. No.1675 of 2015



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