

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P.No.17118 of 2010

& M.P.No.1 of 2010

Thanalakshmi Munusamy

... Petitioner

Versus

1.The Joint Director of College Education,
Anna Salai, Chennai-600 002.

2.The Secretary, Pachaiyapp's Trust,
113, EVR High Road, Shenoy Nagar,
Chennai - 600 030.

3.The Principal, Chellammal Women's College,
Guindy, Chennai - 600 032.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus to direct the 3rd respondent to settle all terminal benefits entitled to the petitioner.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent : Mr.P.Sanjay Gandhi, AGP (for R1)

Mr.N.Baskaran & S.A.Balamurugan,
(for R2 & R3)

ORDER

The prayer in the Writ Petition is for a Writ of Mandamus to direct the 3rd respondent to settle all terminal benefits entitled to the petitioner.

2. The case of the petitioner is that she was working in the third respondent College initially as Lab Attender and thereafter, as Junior Assistant. During the year 2007, by communication dated 05.06.2007, a charge memo was issued by the third respondent to the petitioner, wherein 11 charges were framed against the petitioner. In respect of the said charge memo, an explanation was given by the petitioner on 18.06.2007. Thereafter, proceedings were issued by the

3rd respondent on 04.12.2008, stating that oral enquiry scheduled to be conducted on 05.12.2008, was postponed on a revised date, which would be informed to the petitioner later. Thereafter, nothing moved, in respect of which, a representation was made by the petitioner through his lawyer on 25.05.2010. Thereafter, the petitioner has come out with the present writ petition.

3. Heard both sides.

4. According to the learned counsel for the petitioner, the petitioner has attained superannuation on 02.06.2006, before which, the petitioner had requested for VRS on 28.05.2004. The same was not accepted by the third respondent, thereby, the petitioner continued her service till superannuation, but not attending work due to her health problem for several days from 2004. Therefore, there was no occasion to permit or not to permit the petitioner from retiring service on superannuation.

5. The third respondent has filed a detailed counter repudiating the allegations made by the petitioner in the affidavit filed in support of the Writ Petition. According to the third respondent, the petitioner was chronic absentee for several days continuously for several years and a detailed leave availed particulars, was submitted in the counter, wherein it has been stated that from 2001 to 2004, the petitioner availed leave on various dates, and from 30.07.2014 to 30.06.2006 she had been in absence of duty without applying any leave. For this conduct, the third respondent issued a charge memo against the petitioner and though the reply was given suitably by the petitioner for the said charge memo the enquiry was not proceeded. However, it was halted at one point of time i.e., in the year 2008.

6. It is not known as to why the enquiry was not proceeded after 2008, even till filing of this Writ Petition in 2010. Even during the pendency of the Writ Petition, though there is no stay of enquiry, no enquiry was conducted and it has been kept pending till the notice was issued in the year 2008 for conducting enquiry.

7. Now the issue presently to be resolved lies in a narrow compass, as admittedly, the Writ Petitioner has been suffering with a charge memo, on which enquiry has not been completed. Though several years have passed by, the charges are still there and therefore, it has to be decided only by conducting an enquiry in the manner known to law. Therefore, this Court is of the view that based on the charge memo issued against the petitioner dated 08.05.2007, an enquiry has to be conducted departmentally, in a fast track Court manner and concluded within a shortest possible period. The learned counsel for the respondents 2 and 3 agreed that within 2 months period, the enquiry can be conducted and concluded, for which, the petitioner would fully co-operate as assured by the learned counsel for the petitioner. This statement made by the learned counsel for the petitioner is taken into consideration and accordingly, direction is issued to the 3rd respondent to complete the enquiry within a period of 2 months from the date of receipt of a copy of

this order. The petitioner is directed to co-operate with the enquiry and also directed to attend the enquiry whenever it is fixed by the respondents. Once the enquiry is conducted and finding is given, parties can act accordingly in the manner known to law.

8. The claim now made by the petitioner for any terminal benefits shall be decided, depending upon the outcome of the enquiry.

9. With the above observations and directions, the Writ Petition is disposed of, with no order as to costs. It is made clear that since the charge memo is of the year 2007 and many years have gone and the petitioner is suffering without getting any benefits of her employment from the 3rd respondent, the enquiry should not be delayed beyond the period fixed by this Court. If there is any further delay, the petitioner can take advantage of that and approach the appropriate form for relief. No costs. Consequently, connected M.P. is closed.

pvs

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1 The Joint Director of College Education,
Anna Salai, Chennai-600 002.

2 The Secretary,
Pachaiyappa's Trust,
113, EVR High road, Shenoy Nagar,
Chennai - 600 030

3 The Principal,
Chellammal Women's College,
Guindy, Chennai - 600 032

+1 CC Mr.N.Baskaran Advocate SR.No.58412

+1 CC Government Pleader SR.No.58979

+1 CC Mr.S.T.Varadarajulu Advocate SR.No.58469

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RJ