



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MS.JUSTICE J.NISHA BANU

Writ Appeal (MD).No.360 of 2013

R.Thilagavathi

... Appellant/Petitioner

Vs.

1. The District Librarian,
Madurai.

2. Branch Librarian,
Kottampatti,
Madurai District.

3. R.Chithra

... Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD).No.9110 of 2008 dated 30.09.2010.

Prayer in WP(MD). 9110/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No. 4870/A/07-5 dated 29/09/2008 issued db by the 1st respondnet and quash the same and consequently direct the first respondnet to permit the petitioner herein to continue to act as part time Librarian of Pandangudi Rural Library.

For Appellant	:	Mr.G.R.Swaminathan
For Respondents	:	Mr.R.Velmurugan Government Advocate

J U D G M E N T

(Judgment of the Court was made by **M. SATHYANARAYANAN, J.**)

By consent, the writ appeal itself is taken up for final disposal.

2. The appellant is the writ petitioner and after completing her Higher Secondary Course also qualified with the Certificate in Library and Information Science awarded by the Madurai Kamaraj University. She got registered herself with Madurai District



Employment Exchange. It is stated by the petitioner that in her village viz., Pandankudi, a part time library was started and in the year 1996, she was asked to manage the said library and she was discharged duty till the year 1999 and after her marriage, left her native place. Subsequently, the petitioner returned her native village and got an appointment order as part time librarian to manage the very same library vide proceedings of the first respondent, dated 05.09.2006. The petitioner was paid a daily wage of Rs.20/-.

3. According to the petitioner, the order does not say the period of her employment and therefore, she was under the *bona fide* impression that she can continue in the capacity available. However, to the shock and surprise of the petitioner, on 06.10.2008, the Branch Librarian of Kottampatti called upon the petitioner to hand over the charge to the third respondent, who was a part-time Librarian and an order dated 29.09.2008, was also passed and challenging the legality of the said order, he had filed a writ petition. The writ petition was entertained and notice was ordered to the respondents.

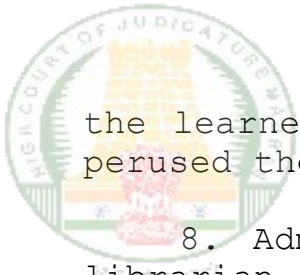
4. The learned Judge, upon hearing the rival submissions found that admittedly, the name of the petitioner was not sponsored by the Employment Exchange and since the third respondent is also appointed as a part-time Librarian, the petitioner, who was working as a part-time Librarian cannot challenge the same and citing the said reasons, dismissed the writ petition, vide order dated 30.09.2010 and challenging the said order, the petitioner has filed this writ appeal.

5. Mr.G.R.Swaminathan, the learned counsel appearing for the appellant would vehemently contend that if the post is a permanent one, it can be filled up by an incumbent, who is in permanent service and admittedly, the third respondent is also appointed as a part-time Librarian and as the petitioner had put in long years of service, the services of the petitioner cannot be disturbed for the reason that she was working in the capacity for a quite number of years and therefore, prays for interference.

6. Per contra, Mr.R.Velmurugan, the learned Government Advocate appearing for the respondents would contend that admittedly, it is a case of part-time employment and the petitioner, as a matter of right, cannot continue in that capacity and she has been replaced by the third respondent, who was also appointed as a part-time Librarian and as such, the contention put forward by the learned counsel for the petitioner is wholly untenable and prays for dismissal of the writ appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

7. This Court heard the submission of Mr.G.R.Swaminathan, the learned counsel appearing for the petitioner and Mr.M.Velmurugan,



the learned Government Advocate appearing for the respondents and perused the typed set of papers.

8. Admittedly, the petitioner was appointed as a part time librarian and it is the specific stand of the respondents that she was not sponsored through employment exchange.

9. In the considered opinion of the Court, in the absence of any statutory rule affording legal right on the petitioner to continue as a part time librarian, she cannot make a challenge to the appointment of the third respondent, who was also accommodated as a part time librarian. The learned Judge, in paragraph-3 of the order, considering all the relevant points arrived at the right conclusion to dismiss the writ petition and in paragraph-5 also granted liberty by observing that if there is any vacancy in the same village library or nearby village for the post of part time librarian and if the petitioner makes any such application, the same should be considered in accordance with law.

10. This Court finds that there is no error apparent on the reasons assigned by the learned Judge for dismissing the writ petition and finds no merit in the writ appeal and therefore, the writ appeal is dismissed, confirming the order in W.P.(MD).No.9110 of 2008 dated 30.09.2016, passed by this Court. However, there will be no order as to costs.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1. The District Librarian, Madurai.

2. Branch Librarian, Kottampatti, Madurai District.

+1 cc to M/s.G.R.Swaminathan, Advocate in SR.No.61539

+1 cc to The Special Government Pleader in SR.No.61253

akv

CSL/GSV-PM/11.11.2016 :3P/5C

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