



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

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W.P. (MD) No. 5891 of 2011
and
M.P (MD) Nos. 1 and 3 of 2010

1. R. Celin Rajakkannu
2. R. Therasal Vinothini
3. R. Rani ... Petitioners

Vs.

1. The Joint Commissioner of
Revenue Administration,
(Grievance and Redressal Grievance Cell)
Chepauk, Chennai - 5.
2. The District Revenue Officer,
Pudukkottai District.
3. The Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.
4. The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.
5. The Additional Controller of Examinations,
Directorate of Distance Education,
Madurai Kamaraj University,
University Buildings,
Palkalai Nagar,
Madurai - 21.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus to call for the records of the first respondent dated 21.12.2006 in his proceedings Na.ka.gzp 5(3)65118/05, confirmed the order of the 2nd respondent dated 07.06.2006 passed in Na.Ka.No.A1/12603/2006 as confirmed by the orders of the 3rd respondent dated 25.01.2006 passed in Na.Ka.No.11538-2005(A3), quash the same and consequently direct the respondents to 4 to treat the first respondents husband Thiru.A.Rajakannu (late) deemed to have been retired from service on 31.08.2006 with consequential benefits payable to



the petitioner including retirement benefits as well as family pension etc., with arrears of salary with interest within the time stipulated by this Court.

For Petitioner : Mr.F.Deepak

For Respondents : Mr.K.Guru,
Addl. Govt. Pleader for R1 to R4
No appearance for R5

O R D E R

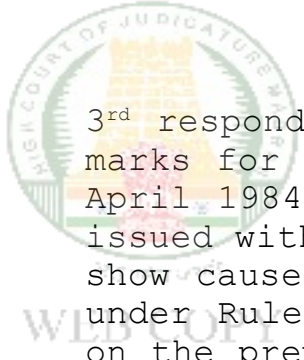
The writ petition is filed challenging the impugned order of the first respondent dated 21.12.2006, confirmed the order of the 2nd respondent dated 07.06.2006 as confirmed by the orders of the 3rd respondent dated 25.01.2006 and seeking for a direction to the respondents 1 to 4 to treat the first petitioner's husband Thiru.A.Rajakannu (late) deemed to have been retired from service on 31.08.2006 with consequential benefits payable to the petitioner including retirement benefits as well as family pension etc., with arrears of salary with interest within the time stipulated by this Court.

2.The case of the petitioner is that her husband A.Rajakannu, S/o. Arokiasamy, while he was working as Village Administrative Officer, was issued with an order of dismissal by the 3rd respondent, dated 25.01.2006, without following the procedure established by law even without framing charges and without conducting enquiry. The appeal preferred by the husband of the 1st petitioner to the second respondent was rejected on 07.06.2006. The husband of the 1st petitioner preferred another appeal to the first respondent but the same was also rejected on 21.12.2006. In the meantime, the husband of the 1st petitioner expired on 09.10.2006. Hence, the 1st petitioner being the wife of the deceased Government employee and other two petitioners are being his daughters preferring this present Writ Petition pursuing the legal remedy for the relief as prayed for.

3.The further case of the petitioner is that the first petitioner's husband was initially working as 'Village Karnam' from 1970 onwards. While so, the post of Village Karnam came to be abolished as per the orders passed by the Government as on 14.11.1980. He was one among the person who was holding the post of Village Karnam in Pudukkottai District. After abolition of the post of Village Karnam, the State Government created posts called 'Village Administrative Officer' to be considered for appointment to the post of Village

Village
Amsterdam

5. The petitioner further submits that having regard to the fact that the 1st petitioner's husband was qualified, he was appointed as Village Administrative Officer by the Proceedings of the 2nd respondent dated 29.06.1995 and subsequently his services were regularized from the date of joining on 03.07.1995 and the probation was also declared. The 1st petitioner's husband has passed all the departmental tests as required. Further, he has rendered unblemished record of service without giving room for any complaint or whatsoever and he was due to retire on reaching superannuation on 31.08.2006. While that being so, his shock and surprise, he was placed under suspension as per the proceedings of the



3rd respondent dated 12.12.2005 stating that the statement of marks for Pre-foundational Course bearing Register No.1270 of April 1984 was treated as not genuine. Subsequently, he was issued with Show Cause Notice dated 22.12.2005 calling upon to show cause as to why he should not be dismissed from service under Rule 8 (viii) of Tamil Nadu Civil Services (D&A) Rules on the premises that he has produced a false list of marks of Pre-foundational course. He has submitted his detailed explanation on 09.01.2006 setting out the details that there could be no occasion for falsification of records as he has genuinely undergone the course and got the course certificate from 5th respondent University and further the same was duly verified at the time of his appointment and then he wrote the Higher Secondary Examination subsequently. In the meantime, the petitioner's husband has also approached the 5th respondent University as what could be the reason for giving such false information to the department regarding the genuineness of the certificate obtained by the petitioner. In this regard, the 5th respondent has issued a notice of enquiry dated 29.12.2005 calling upon the petitioner to attend the enquiry to be held on 04.01.2006 at 10.00 am along with written explanation in the prescribed format which was received by him on 02.01.2006. On the next day, he received one telegram from the 5th respondent stating that enquiry is postponed to 05.01.2006 instead of 04.01.2006 at Syndicate room. As per the notice, the petitioner's husband has also attended the enquiry on 05.01.2006 before the enquiry committee of the 5th respondent and submitted his explanation by producing relevant records as well as given written explanation in the required format. While that be so, the 3rd respondent issued orders in Na.Ka.No.11538-2005 (A3) dated 25.01.2006 dismissing the services of the petitioner without following any of the procedure as established by law simply saying that the Pre-foundational Course Certificate produced by the petitioner is not genuine. Except the Show Cause Notice dated 29.12.2005 served on him on 30.12.2005, he has not received anything else. No charges have been framed against him and no enquiry was conducted. Furthermore, with regard to the correctness of the entries of Statement of Marks of Pre-foundational Course April 1984, the first petitioner's husband was called upon to attend the enquiry by the 5th respondent University which has issued the Certificate and the enquiry was conducted on 05.01.2006 and the Statement of the petitioner was also obtained. But the 5th respondent has not passed any orders. In the meantime, the 3rd respondent has passed order of dismissal from service against the 1st petitioner's husband in violation to principles of law and without following the procedure like framing of charges, enquiry etc.,.

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6.It is the further case of the petitioner that the first



petitioner's husband has preferred an appeal before the 2nd respondent immediately on 07.03.2006. But the 2nd respondent has passed orders on 07.06.2006 rejecting the appeal by confirming the order of dismissal from service stating that the petitioner's husband has failed to prove his educational qualification through records which is contrary to the fact. The first petitioner's husband has preferred further appeal to the 1st respondent on 03.08.2006 since he was arbitrarily dismissed from service for no fault of him and he was thoroughly demoralized and dejected. When he has not committed any mistake without conducting enquiry and without properly ascertaining the facts, he has dismissed from service unceremoniously even without conducting enquiry. There was no report from the University as if the Certificate of petitioner's husband was not genuine. On the other hand, the said enquiry was also pending and the petitioner's husband satisfied the Additional Controller of Examination that there was no falsification of records and everything was genuine. In spite of that, even before any final decision is taken by the University which is the author of the Certificate, the 3rd respondent passed orders dismissing the petitioner from service confirmed by the 2nd Respondent. While so, pending appeal with the 1st respondent, the petitioner's husband suddenly expired on 09.10.2006. Subsequently, the first respondent passed orders on 21.12.2006 rejecting the Revision Petition made by the petitioner's husband without assigning any reason except saying the charges are proved. The fact remains that there was no charges framed as required under Rule 17(b) of Tamil Nadu Civil Services (D&A) Rules to pass orders under Rule 8. Even there was no report from the 5th respondent University regarding genuineness of the certificates issued to the petitioner's husband and the said enquiry was pending. Therefore, the entire proceedings are vitiated by errors of law and the petitioner's husband was sent out of service for no fault of him which has ultimately taken his life. He was highly grief-stricken could not bear the loss and ultimately succumbed to the adversarial atmosphere and lost his life.

7. It is the further case of the petitioner that after the death of first petitioner's husband, their family could not be able to recover the loss of the only breadwinner. It took considerable time for them to approach the legal remedy. The action of the respondents in dismissing the petitioner from service even without framing charges and without conducting enquiry is highly unlawful, illegal and unjustifiable and therefore the petitioner is having no other efficacious alternative, speedy remedy except to approach this Court under Article 226 of the Constitution of India.

<https://hccs.courts.gov.in/hccs/office/>

8. Heard Mr. F. Deepak, learned counsel appearing for the



petitioners and the Mr.K.Guru, learned counsel appearing for the respondents.

9.The learned counsel appearing for the petitioners submitted that the impugned order of dismissal came to be passed in violation to Tamil Nadu Civil Services (D & A) Rules inasmuch as the petitioner has not been issued with another charge memo nor any enquiry was conducted. Further, the learned counsel submitted that the first petitioner's husband was issued with order of dismissal under Rule 8(viii) merely on the basis of the show cause notice and on receipt of explanation for the same in the manner not known to law, therefore, the impugned order is liable to be set aside.

10.The learned counsel appearing for the petitioner also submitted that the impugned orders are passed in violation of principles of natural justice without providing an opportunity as required in the Rules. There cannot be any order of dismissal of service to be passed under Rule 8(viii) of Tamil Nadu Civil Services (D & A) Rules without framing charges under Rule 17(b) and without conducting enquiry as required under the Rules and further it is in violation of Article 311 of Constitution of India, therefore, the impugned order passed in violation of the rules and in violation of principles of natural justice.

11.Considering the facts and circumstances of the case and considering the fact that the impugned order has been passed without framing charges against the first petitioner's husband under Rule 17(b) of Tamil Nadu Civil Services (D & A) Rules and without conducting enquiry as required under the Rules, the impugned order is liable to be set aside.

12.In the result:

(a) this writ petition is allowed by setting aside the order in Na.Ka.gzp.5(3)65118/05, dated 21.12.2006 passed by the 1st respondent, confirmed the order of the 2nd respondent dated 07.06.2006 passed in Na.Ka.No.A1/12603/2006 as confirmed by the orders of the 3rd respondent dated 25.01.2006 passed in Na.Ka.No.11538-2005(A3).

(b) the respondents 1 to 4 are hereby directed to treat the first petitioner's husband Thiru.A.Rajakannu (late) deemed to have been retired from service on 31.08.2006 and to pay all the service and monetary benefits to the petitioners, including retirement benefits as well as family pension, etc. with arrears of salary.

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

(c) the said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order. No



costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

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Sub Assistant Registrar

To

- 1.The Joint Commissioner of
Revenue Administration,
(Grievance and Redressal Grievance Cell)
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 - 5.The Additional Controller of Examinations,
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Madurai Kamaraj University,
University Buildings,
Palkalai Nagar,
Madurai -21.
- +1cc to Special Government Pleader,SR.66009.

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M.P (MD) Nos.1 and 3 of 2010
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