

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2017

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26293 of 2014 &
M.P.Nos.1 to 3 of 2014

S.Gandhimathi

.. Petitioner

Vs.

1.The Director of Adi Dravidar and Tribal Welfare,
Ezhilagam
Chennai-600 066.

2.The District Adi Dravidar Welfare Officer,
Cuddalore District,
Cuddalore.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus directing the calling for the records on the file of the second respondent in connection with the order passed in Na.Ka.Ya9/78288/97 dated 06.12.1997 and quash the same and further direct the respondents to pay selection grade with effect from 19.01.1999 and special grade with effect from 19.01.2009 and also promotion to the post of P.G.Assistant with effect from the date of promotion given to all his juniors with all monetary and service benefits by issuing a writ of certiorarified mandamus.

For Petitioner : Mr.R.Singaravelan, Senior Counsel
for M/s.M.Srividhya

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Government Pleader

ORDER

The petitioner joined as Tutor/Matron in the cadre of B.T. Assistant on 19.01.1989 under the control of the District Adi Dravidar Welfare Officer, Cuddalore. While she was working as Tutor/Matron in Government Nandanar Girls Higher Secondary School, Chidambaram, certain charges were framed against her on 06.12.1997 under Rule 17 (b) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules. When the charges framed in the year 1997, the petitioner challenged the framing of charges

against her in O.A.No.385 of 1998 before the Tamil Nadu Administrative Tribunal, Chennai. The Tribunal has directed the respondents to furnish the necessary statements of allegations and the statement of witnesses within a period of two weeks and thereafter proceed with the enquiry. The said order was passed on 22.01.1998. Thereafter, the petitioner was transferred by proceedings dated 28.05.1998 which was challenged by the petitioner in O.A.No.4431 of 1998 and the order of transfer was stayed. Subsequently, the petitioner was placed under suspension on 15.12.1999 and the petitioner challenged the suspension order in O.A.No.303 of 2000 and the Tamil Nadu Administrative Tribunal stayed the order of suspension and therefore, the petitioner has been continuously working. But the disciplinary proceedings were not proceeded and concluded. In 2004, i.e. on 18.01.2004, a notice was issued to the petitioner asking her to appear for enquiry before the Special Tahsildar, (ADW), Virudhachalam on 31.01.2004 at 10.00 a.m. Thereafter nothing seems to have happened till the filing of the writ petition in the year 2014.

2. A Counter affidavit has been filed by the District Adi Dravidar Welfare Officer, Cuddalore, viz., the second respondent herein wherein it is stated that the enquiry could not be completed due to non-co-operation of the petitioner. This reason is not acceptable. It is open to the Authorities to proceed with the enquiry even if the petitioner has not co-operated. The Tribunal on 22.01.1998 directed the respondents to furnish the necessary statements of allegations and the statement of witnesses within a period of two weeks and the order of the Tribunal has not been complied with.

3. Mr.R.Singaravelan, learned Senior Counsel appearing for the petitioner would rely upon the decision of the Hon'ble Supreme Court in P.V.MAHADEVAN V. MD.TN.HOUSING BOARD reported in (2005) 6 Supreme Court Cases 636 wherein it has been held that the delay in initiation and completion of enquiry proceedings is fatal to the disciplinary proceedings itself. In this case on hand, the charges framed in the year 1997 and the enquiry officer was appointed in 2003 and the notice was issued in January, 2004 seeking appearance of the petitioner for enquiry. Almost 13 years have passed, but no enquiry has been conducted and the disciplinary proceedings are pending. Unfortunately, the petitioner was also denied all attendant benefits like promotion, increments, etc. Stoppage of increment itself is a punishment as also the pendency of disciplinary proceedings for more than 20 years. However, in view of the nature of charges, I am not inclined to quash the charge memo. The respondents would be at liberty to proceed with the enquiry. The first respondent shall decide as to whether it will be

necessary at all to proceed with the enquiry at this distant point of time and such decision should be taken within a period of eight weeks from the date of receipt of a copy of this order and communicated to the petitioner. De hors the pendency of the enquiry, there will be a direction to the respondents to grant all monetary benefits due to the petitioner until an order is passed in the disciplinary proceedings referred supra. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

4. The writ petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Director of Adi Dravidar and Tribal Welfare,
Ezhilagam
Chennai-600 066.

2.The District Adi Dravidar Welfare Officer,
Cuddalore District,
Cuddalore.

+1cc to Mrs,Sirvidya Advocate, S.R.No.37733

W.P.No.26293 of 2014 &
M.P.Nos.1 to 3 of 2014

GJ(CO)
RS(12/06/2017)

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