

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.747 of 2013

G.Vijaya

.. Petitioner

Vs.

1.The Director of Technical Eduation,
Sardar Patel Road,
Guindy, Chennai - 600 0025.

2.The Secretary,
Thegarajar Polytechnic College,
Suramangalam,
Salem - 5.

3.The Principal,
Thegarajar Polytechnic College,
Suramangalam,
Salem - 5.

.. Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 2 and 3 to permit the petitioner to continue to discharge her duties as Hostel Clerk.

For Petitioner : Mr.R.Subramanian

For Respondents : Ms.K.Bhuvaneswari (for R1)
Government Advocate

Ms.Madhri. G (for R2 & R3)
for M/s.T.S.Gopalan & Co.

ORDER

This writ petition has been filed by the petitioner seeking a writ of mandamus directing the respondents 2 and 3 to permit the petitioner to continue to discharge her duties as Hostel Clerk.

2. The grievance of the petitioner is that she was appointed as Clerk in the respondent Polytechnic College Hostel on 05.02.1998 and from the date of her appointment, she was working as Hostel Clerk. Though no appointment order was issued to her, from the year 1998 to 2005, the petitioner was paid salary directly, for which signatures were obtained in the acquittance register.

3. According to the petitioner, from 01.07.2005 onwards the second respondent deducted Provident Fund from her salary and the salary was being credited to her account with Axis Bank, Salem. The petitioner had put in nearly 14 years of unblemished service.

4. The case of the petitioner is that during November, 2012, the second respondent arbitrarily terminated the services of Hostel Warden, Manager, Cashier and Accountant and the petitioner was also not paid salary for the month of November, 2012. On 08.12.2012, when the petitioner went to the College for reporting duty, the Superintendent informed her that she should not come to work as per the oral instructions of the College Management. No written notice or communication was given to her and the Superintendent of the College was threatening her by saying that if she was continuing to work, then charges would be foisted against her.

5. On 08.12.2012, the petitioner submitted a representation to the first respondent seeking intervention by marking copies to the respondents 2 and 3. Despite receipt of the same, the respondents have not taken any action on the representation.

6. Resisting the writ petition, the respondents 2 and 3 have filed counter stating that during verification of financial records carried out in November, 2012, it came to light that the petitioner had committed certain financial irregularities. When the officials of the respondent were probing into the matter to find out the truth, apprehending disciplinary action against her, the petitioner stopped reporting for work from 10.12.2012 by alleging that she was suffering from fever. However, she made it appear that she was not allowed to report for work from 08.12.2012. It is stated that as the respondents 2 and 3 were concentrating on the exact nature of the financial irregularities committed in its institution and the role played by her, it could not reply to the petitioner's representation. However, it is made clear that the petitioner is still in the employment of the respondents 2 and 3 institution and she was free to report for work forthwith. It is stated that since the petitioner was in the employment of the respondents 2 and 3, the prayer in the writ petition is unsustainable and prayed for dismissal of the writ petition.

7. I heard Mr.R.Subramanian, learned counsel appearing for the petitioner, Ms.K.Bhuvaneswari, learned Government Advocate appearing for the first respondent and Ms.G.Madhri, learned counsel on behalf of M/s.T.S.Gopalan & Co., appearing for the respondents 2 and 3 and also perused the materials available on record.

8. The learned counsel appearing for the respondents 2 and 3 submitted that the petitioner is still in the employment of the respondents 2 and 3 and she is free to report for work at any time.

9. In view of the categorical statement of the respondents 2 and 3 in their counter that the petitioner is still in the employment of the respondents 2 and 3 and she is free to report for work forthwith, the writ petition is allowed with a direction to the petitioner to report for work forthwith and the respondents 2 and 3 are, in turn, directed to permit the petitioner to continue to discharge her duties in the respondent Polytechnic College. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Director of Technical Education,
Sardar Patel Road,
Guindy, Chennai - 600 025.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.48180

+1cc to Mr.R.Subramanian, Advocate, S.R.No.48292

+1cc to the Government Pleader, S.R.No.48603

W.P.No.747 of 2013

CS/12/07/18