

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.3987 of 2012

K.Uma

... Petitioner

Vs

The Commissioner,
Corporation of Salem,
Salem 636 001.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to direct the respondent to provide duty to the petitioner and pay her salary with effect from 01.06.2010 and award costs.

For Petitioner : Mr.S.Ayyathurai
For Respondent : Ms.K.Bhuvaneshwari

O R D E R

Heard Mr.S.Ayyathurai, learned counsel for the petitioner and Ms.K.Bhuvaneshwari, learned counsel appearing for the respondent.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Mandamus, to direct the respondent to provide duty to the petitioner and pay her salary with effect from 01.06.2010 and award costs."

3. The case of the petitioner is as follows:-

The petitioner joined the service of the respondent on 01.11.1990 as an NMR in the Water Supply Department. The petitioner while in service, had obtained Commerce Degree (B.Com) from the open university (Annamalai University). She had also obtained Diploma in Computer Education Course in May 2000. She was appointed as unskilled employee on consolidated pay of Rs.2000/-Thereafter, in February 2006, she was brought on regular time scale for the unskilled category employee and her probation also declared in May 2008.

4. While matter stood thus, it appears that the respondent Corporation had issued a charge memo on 24.08.2009, alleging unauthorized absence. In response to the same, an explanation was

submitted by the petitioner that she was suffering from ailment. Although she reported for duty after recovery, she was not allowed to join duty by oral instructions of the authorities concerned.

5. In the above circumstances, a representation was said to have been submitted by the petitioner on 26.02.2011, requesting for payment of salary for the period when she was not allowed to work. A further representation was also said to have been submitted on 03.11.2011, requesting for allotment of duty and payment of salary. However, without considering her request, a further memo was issued on 15.11.2011, where the petitioner was asked to attend the enquiry to be held on 25.11.2011.

6. The enquiry was to be conducted into the charges levelled against the petitioner for her unauthorized absence for some period. Thereafter, nothing was heard from the respondent and no work had been allotted to the petitioner, inspite of her reporting for work. Therefore, the petitioner is before this Court, seeking to issue a writ of Mandamus.

7. Upon notice, learned counsel appearing for the respondent, entered appearance and filed a counter affidavit. In the counter affidavit, in paragraph 8, it is stated that on the basis of departmental enquiry conducted into the charges levelled against the petitioner, an enquiry had been completed and the report was also submitted to the Office. Since the petitioner has approached this Court and the present writ petition is kept pending, the respondent Corporation did not pass any further orders after the filing of the enquiry report.

8. According to the learned counsel for the respondent Corporation, the petitioner was absent on her own and the allegation that the authority did not allow her to work was contrary to the fact. According to her, the petitioner used to remain absent on and of and the present situation was brought upon herself by her own conduct.

9. From the above narration of facts, it appears that the respondent Corporation have initiated disciplinary action against the petitioner for her alleged unauthorized absence. However, the disciplinary action has not reached the legal conclusion, it has stopped at the stage of enquiry itself as averred in the counter affidavit.

10. The learned counsel for the petitioner would submit that although the petitioner was willing to work and reported for duty on some occasions, the official had orally refused her any work and therefore, she was impelled to file the present writ petition, seeking to issue a Writ of Mandamus. According to him, earlier representations were made for allotment of work and such

representations were not considered, the petitioner was constrained to approach this Court.

11. Considering the submissions of the learned counsel for both parties, this Court is of the view that the respondent may be directed to allow the petitioner to work in the same capacity in which she was working originally. The respondent is also directed to furnish the copy of the enquiry report to the petitioner and after obtaining explanation from the petitioner, a further action may be taken in concluding the disciplinary action initiated against the petitioner.

12. The petitioner is directed to report for work on 26.12.2017 and the authority concerned shall allow her to work, pending finalisation of the disciplinary action initiated against the petitioner.

13. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gsk

To

The Commissioner,
Corporation of Salem,
Salem 636 001.

+1cc to Mr.S.AYYATHURAI Advocate, S.R.No. 91932
+1cc to Mr.K.BHUVANESWARI Advocate, S.R.No. 92099

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RR(CO)
TR(22/12/2017)

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