



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

**W.A. [MD].Nos.1430, 1431, 1541, 1542 of 2016 and 964 of 2015
and**

W.M.P. (MD).Nos.10758, 10759, 11376, 11377 of 2016 and 2 of 2015

W.A. (MD) .No.1430 of 2016:-

1.The Director,
Social Welfare Department,
Chepauk, Chennai.

2.The District Social Welfare Officer,
Theni.

3.The Commissioner,
Bodinayakanur Panchayat Union,
Bodinayakanur, Theni District.

4.The Secretary,
Board of Secondary Education,
College Road, Chennai.

: Appellants/Respondents

Vs.

A.Vijayalakshmi

: Respondent/Petitioner

W.A. (MD) .No.1431 of 2016:-

1.The Director,
Social Welfare Department,
Chepauk, Chennai.

2.The District Social Welfare Officer,
Theni.

3.The Commissioner,
Chinnamannur Panchayat Union,
Chinnamannur, Theni District.

4.The Secretary,
Board of Secondary Education,
College Road, Chennai.

: Appellants/Respondents



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Vs

V. Kesammal

: Respondent/Petitioner

W.A. (MD).No.1541 of 2016:-

- 1.The Director,
Social Welfare Department,
Chepauk, Chennai.
- 2.The District Social Welfare Officer,
Theni.
- 3.The Commissioner,
Periyakulam Panchayat Union,
Periyakulam, Theni District.
- 4.The Secretary,
Board of Secondary Education,
College Road, Chennai.

: Appellants/Respondent

Vs

P.Pounuthai

: Respondent/Petitioner

W.A. (MD).No.1542 of 2016:-

- 1.The Director,
Social Welfare Department,
Chepauk, Chennai.
- 2.The Child Development Officer,
Kadambathur, Thiruvallur.

: Appellants/Respondents

Vs

D.Sakunthala

: Respondent/Petitioner

W.A. (MD).No.964 of 2015:-

- 1.The Director,
Social Welfare Department,
Chepauk, Chennai.
- 2.The District Social Welfare Officer,
Karur.

- 3.The Commissioner,
Periyakulam Panchayat Union,
Karur.



4. The Director,
Directorate of Secondary Examination,
College Road, Chennai.
Board of Secondary Education,
College Road, Chennai.

: Appellants/Respondents

Vs

Neelavathy

: Respondent/Petitioner

PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent against the orders dated 04.07.2014, 04.07.2014, 04.07.2014, 04.07.2014 and 09.06.2014 made in W.P(MD) Nos. 3117, 3118, 3470 and 4720 of 2011 and 15932 of 2012 respectively on the file of this Court.

Prayer in WP(MD). 3117/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue an order or direction in the nature of a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent by his proceeding in Na.Ka. No.42051/Nir 5 - 3 /2003 dated 24.08.2007 and quash the same and direct the 1st respondent to consider that this petitioner had deem to have retired from 31.03.2007 and pay all future benefits.

Prayer in WP(MD). 3118/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent by his proceeding in Na.Ka.No. 47173/Nir5(3)/2003 dated 09-04-2008 and quash the same pass and direct the respondent to reinstate the petitioner with all back wages and terminal benefits and pass other further order from 09/04/2008

Prayer in WP(MD). 3470/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in Na.Ka.No.63866/Nir 3(2)/1998 dated 22.07.2003 and quash the same and direct the 1st respondent to reinstate the petitioner with all back wages and terminal benefits.

Prayer in WP(MD). 4720/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the 1st Respondent by his proceedings in Na.Ka.No.80061/Nir 5-3/99, dated 29-08-2007 and quash the same and direct the Respondents to reinstate the Petitioner with all back wages and terminal benefits.

Prayer in WP(MD). 15932/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue an order or direction in the nature of a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the 1st respondent by his proceedings in Na.Ka.54239/Nir5-3/2011 dated 23/12/2011 and quash the same and direct the 1st respondent to pay all terminal benefits and retirement benefits

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondents : Mr.K.P.S.Palanivelrajan

COMMON JUDGMENT

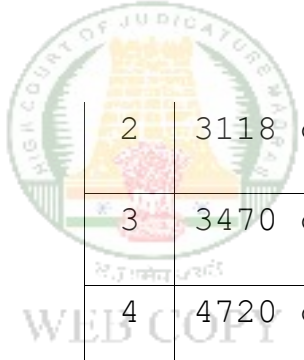
[Judgment of the Court was made by **R.SUBBIAH, J.**]

The present Writ Appeals have been filed as against the orders dated 04.07.2014 and 09.06.2014 made in W.P(MD)Nos.3117, 3118, 3470 and 4720 of 2011 and 15932 of 2012.

2. Since the issue involved in all these Writ Appeals is one and the same, they were heard together and the Writ Appeals are disposed of by means of this Common Judgment.

3. The case of the respondents/Writ Petitioners before the learned Single Judge is that they joined duty as Children Welfare Organizers (Bala Sevika) under the first appellant. Thereafter, they had completed their S.S.L.C. examinations as private candidates. Subsequent to the same, they were promoted as the Rural Welfare Officers (W). While so, they were issued with the charge memos under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules on the ground that on verification with the fourth appellant, S.S.L.C., certificates produced by the respondents/Writ Petitioners were found to be bogus. Thereafter, they submitted their explanations to the first appellant. Having not been satisfied with the same, the first appellant directed the respondents to appear for enquiry. Based on the communication sent by the fourth appellant, the first appellant found that the charges levelled against the respondents were proved and passed the impugned orders of termination. The relevant details pertaining to the respondents/Writ Petitioners, could be set out thus:

Sl. No.	W.P (MD) No (s) .	Name of the Petitioner(s)	Date of Joining as C.W.O.	Month of Pass in S.S.L.C.	Date of Impugned Order (s)
1	3117 of 2011	A.Vijayalakshmi	15.08.1972	October, 1993	24.08.2007



2	3118 of 2011	V.Kesammal	15.08.1972	October, 1993	09.04.2008
3	3470 of 2011	P.Pounuthai	19.04.1976	October, 1994	22.07.2003
4	4720 of 2011	D.Sakunthala	22.05.1979	October, 1993	29.08.2007
5	15932 of 2012	Neelavathy	15.12.1972	October 1995	23.12.2011

Challenging the impugned orders of termination, they filed the said Writ Petitions.

4. The learned Single Judge of this Court, by orders dated 04.07.2014 and 09.06.2014, relying on the decision rendered by this Court in **Neelavathy v. The Director, Social Welfare Department, Chepauk, Chennai, and others, [W.P(MD)No.15932 of 2012, decided on 09.06.2014]**, set aside the orders of termination passed as against the respondents/Writ Petitioners and granted the relief as sought for. Questioning the validity of the above orders, the appellants have come up with these Writ Appeals.

5. The learned Special Government Pleader appearing for the appellants submitted that the respondents/Writ Petitioners had produced bogus certificates to claim promotions and increments and thus, they are not entitled for the relief sought for. However, the learned Single Judge, without considering the above aspect, has passed the orders, setting aside the orders of termination. Therefore, the orders passed by the learned Single Judge are liable to be interfered with.

6. Per contra, the learned counsel appearing for the respondents submitted that in an identical situation, in the case of **Neelavathy v. The Director, Social Welfare Department, Chepauk, Chennai, and others, [W.P(MD)No.15932 of 2012, decided on 09.06.2014]**, this Court considered the similar issue and set aside the order of termination and directed to settle the terminal benefits payable to the respondents therein and thus, the respondents herein also are entitled for the same benefits.

7. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

8. As rightly pointed out by the learned counsel appearing for the respondents, the issue involved in these Writ Appeals is squarely covered by the decision of this Court in **Neelavathy v. The Director, Social Welfare Department, Chepauk, Chennai, and others, [W.P(MD)No.15932 of 2012, decided on 09.06.2014]**, wherein it has been held as follows:-



"7. As rightly contended by the learned counsel appearing for the petitioner that in a departmental enquiry, it is for the department to prove the charges levelled against the delinquent. The charge against the petitioner is that she produced bogus SSLC certificate to claim promotion. It is the bounden duty of the respondents to verify the certificate produced by the petitioner at the time when she was given promotion. But, the respondents have failed to do so. The petitioner produced such certificate in the year 1995 and she was given promotion in the year 1998 and there is no reason for the respondents to wait for eight years and to issue charge memo, subsequent suspension order, order of dismissal and lastly the order of removal from service.

8. This Court, in **J.Meerabai Vs. The Director of Social Welfare, [W.P.[MD].No.7106 of 2008]**, considered the similar issue and set aside the order of dismissal from service and held as follows:-

"8. In the present case, the petitioner has the protection of Article 311(2) of the Constitution of India before any punishment of removal is imposed on her. Since the basic principles of natural justice are violated, the impugned order is hereby set aside and it is observed that the Government cannot wake up to the situation after 13 years after the promotion of the petitioner at the end of her service. Therefore, there is no further direction to conduct enquiry."

9. In **Ponnuthai Vs. The Director, Social Welfare Department, [W.P.[MD].No.3023 of 2011, dated 01.10.2012]**, this Court, taking into consideration of the Judgment in **J.Meerabai Vs. The Director of Social Welfare, [W.P.[MD].No.7106 of 2008]**, held as follows:-

"A specific averment has been made in the affidavit filed in support of the petition that the copy of the letter of the respondent No.4 has not been furnished to the petitioner. There is no material to substantiate that the said averment is false, moreso no counter has been filed to contradict the same. Both the enquiry officer and respondent No.1 proceeded as if it is for the petitioner to prove the certificate as true and genuine. In a



respondents are directed to settle the terminal benefits payable to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

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11. The Writ Petition is allowed, as indicated above. No costs."

9. As against one of the orders dated 01.10.2012 made in W.P (MD).No.3023 of 2011, [**Ponnuthai Vs. The Director, Social Welfare Department**], referred to above, the appellants filed W.A.(MD). No.756 of 2013. A Division Bench of this Court, by Judgment dated 11.02.2015, while confirming the order passed by the learned Single Judge, dismissed the Writ Appeal filed by the appellants therein.

10. Following the above Judgments, the orders dated 04.07.2014 and 09.06.2014 made in W.P(MD)Nos.3117, 3118, 3470 and 4720 of 2011 and 15932 of 2012, are confirmed and the Writ Appeals are dismissed. The appellants herein are directed to implement the orders passed by the learned Single Judge, within a period of twelve weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director,
Social Welfare Department,
Chepauk,
Chennai.
- 2.The District Social Welfare Officer,
Theni.
- 3.The Commissioner,
Bodinayakanur Panchayat Union,
Bodinayakanur, Theni District.
- 4.The Secretary,
Board of Secondary Education,
Chennai.



5.The Commissioner,
Chinnamannur Panchayat Union,
Chinnamannur, Theni District.

6.The Commissioner,
Periyakulam Panchayat Union,
Periyakulam, Theni District.

7.The Commissioner,
Kadavoor Panchayat Union,
Karur.

8.The Child Development Officer,
Kadambathur, Thiruvallur.

9 The District Social Welfare Officer, Karur

10 The Director, Directorate of Secondary Examination,
College Road, Chennai

+5 cc to MR.K.P.S.PALANIVEL RAJAM, Advocate SR.Nos.7994, 7998,
7996, 7997, 7995

**COMMON JUDGMENT MADE IN
W.A.[MD].Nos.1430, 1431, 1541,
1542 of 2016 and 964 of 2015
10.02.2017**

SMA/SV-MMS/28.02.2017:9P/16C