



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2017

CORAM

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THE HONOURABLE MR.JUSTICE T.RAJAW.P(MD)No.15488 of 2017andW.M.P. (MD)No.12261 of 2017

A.Sathiavathi

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Rural Development and Panchayat Raj (E6),
Chennai-600 009.
- 2.The Government of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Personnel and Administrative Reforms (L3),
Chennai-600 009.
- 3.The Commissioner,
Directorate of Rural Development and Panchayat Raj,
Chennai-600 015.
- 4.The District Collector,
District Collectorate, Virudhunagar District.
- 5.The Director,
Directorate of Rural Development and Panchayat Raj,
Chennai-600 015.
- 6.The Chairperson,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, Chennai 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order in Na.Ka.AAR/8658/2006 dated Nil of February 2008 on the file of the respondent No.4 and consequential impugned proceedings in Na.Ka.No.47/2011/AAR.1 dated nil of February 2012 on the file of the respondent no.4; Na.Ka.No.67626/2012/DPC.3-2 dated 17.05.2013 on the file of the respondent No.3; G.O(P)No.264 by ~~Department of~~ Rural Development and Panchayati Raj dated 18.05.2015 on the file of the respondent No.1 and G.O(P)No.155 by



Department of Rural Development and Panchayat Raj dated 31.03.2017 on the file of the respondent No.1 and quash as illegal and to consequently issue a direction, directing the respondents No.1 to refix the petitioner back to her original seniority with all consequential benefits within the time period stipulated by this Court.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents 1 to 5

: Mr.K.Guru,

Additional Government Pleader

For Respondent No.6

: Mr.K.K.Senthil

O R D E R

By consent of both sides, this writ petition itself is taken up for final disposal.

2.The petitioner was departmentally prosecuted vide charge memo dated 10.04.2007 for her long and unauthorized absence for 161 days from office. Finally, the Enquiry Officer submitted a report confirming all the charges against the petitioner. However, the disciplinary authority, while taking into consideration the report of the Enquiry Officer, imposed a major punishment of stoppage of increment for three years with cumulative effect by an order dated nil of February 2008. As against the same, the petitioner preferred an appeal before the appellate authority. Finding that the disciplinary authority has committed serious error in not giving a reasonable opportunity to the delinquent officer/petitioner herein, while deviating from the report of the Enquiry Officer, set aside the same and remanded the matter back to the file of the Disciplinary Authority to redo the matter. Only thereupon, the Disciplinary Authority, again, rectifying the said mistake, after giving an opportunity to the petitioner to explain as to why the report of the Enquiry Officer should not be deviated and on receipt of further explanation from the petitioner, the Disciplinary Authority imposed the punishment of stoppage of increment with one year with cumulative effect by order dated nil of February 2012.

3.Being aggrieved by the aforementioned punishment, the petitioner preferred an appeal on the ground that she was suffering temporary mental illness and therefore the same cannot be viewed seriously. However, the Appellate Authority, disagreeing with the appeal filed by the petitioner, confirmed the order of punishment dated Nil of February 2008. Again, the petitioner preferred a revision before the first respondent/ Principal Secretary, who also, taking note of the fact that the petitioner's unauthorized absence for 161 days, has confirmed the order of stoppage of increment with cumulative effect. As against the same, the present writ petition has been filed.



4. The learned counsel appearing for the petitioner, assailing the impugned order, submitted that only due to sudden state of shock and mental agony, she had undertaken an impromptu travel to Hyderabad, without any conscious and she was also admitted in the State Home, Hyderabad and the Government Hospital that shows clearly that the petitioner was not deliberately absent herself from office for the aforementioned period.

5. The unauthorised absence clearly shows that the petitioner was under the state of shock and mental agony. As a result, she was not able to visit her own office. Therefore, the Original Authority, finding fault with such misconduct, imposed the major punishment of stoppage of increment with cumulative effect and the same has been confirmed both by the appellate and revisional Authority.

6. Therefore, the finding of facts reached by the original, appellate and revisional authority cannot be looked into by this Court under Article 226 of the Constitution of India. Accordingly, writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AE)

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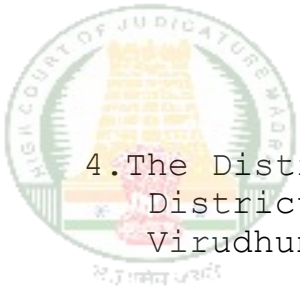
Sub-Assistant Registrar

To

1. The Principal Secretary,
The Government of Tamil Nadu,
Department of Rural Development and Panchayat Raj (E6),
Chennai-600 009.

2. The Principal Secretary,
The Government of Tamil Nadu,
Department of Personnel and Administrative Reforms (L3),
Chennai-600 009.

3. The Commissioner,
Directorate of Rural Development and Panchayat Raj,
Chennai-600 015.



4.The District Collector,
District Collectorate,
Virudhunagar District.

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5.The Director,
Directorate of Rural Development and Panchayat Raj,
Chennai-600 015.

6.The Chairperson,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai 600 003.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.no.73263

+One cc to Mr.K.K.Senthil, Advocate, SR.No.73784

+One cc to The Special Government Pleader, SR.No.73500

Mrn/RR
RL/10C/4P/JC/SAR1/22/9/2017

W.P (MD) No.15488 of 2017
and
W.M.P. (MD) No.12261 of 2017

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