



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.12.2017

CORAM
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WEB COPY

W.P. (MD) No.5478 of 2011

P.Mahalakshmi

...Petitioner

Vs.

1.The District Educational Officer at Tirunelveli,
Seranmahadevi,
Tirunelveli District.

2.The District Level Community Certificate
Verification and Vigilance Committee,
Office of the District Collector,
Tirunelveli District,
Tirunelveli.

3.The Head Master,
Government Higher Secondary School,
Panagudi,
Tirunelveli District.

4.The District Collector,
Tirunelveli District,
Tirunelveli.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the impugned order dated 12.03.2011 made in Na.Ka.No.18137 A1/(2)/92 passed by the first respondent and quash the same and consequently direct the respondents particularly the first respondent to regularize the service of the petitioner's husband in the post of Office Assistant at 3rd respondent's School from the date of his appointment till his death and further to pay all the terminal benefits payable to the petitioner for the death of her husband while he was in service in the post of Office Assistant in the 3rd respondent's School.

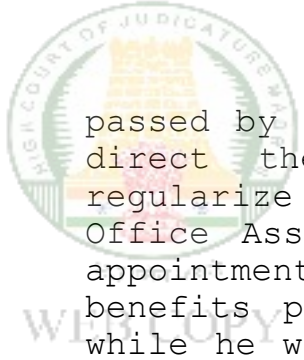
For Petitioner :Mr.S.Palanivelayutham

For Respondents: Mr.V.Muruganantham

Additional Government Pleader

O R D E R

This Writ petition has been filed by the petitioner for
<https://hcservices.ecourts.gov.in/hcservices/> issuance of a Writ of Certiorarified Mandamus to call for the
impugned order dated 12.03.2011 made in Na.Ka.No.18137 A1/(2)/92



passed by the first respondent and quash the same and consequently direct the respondents particularly the first respondent to regularize the service of the petitioner's husband in the post of Office Assistant at 3rd respondent's School from the date of his appointment till his death and further to pay all the terminal benefits payable to the petitioner for the death of her husband while he was in service in the post of Office Assistant in the 3rd respondent's School.

2.It is the case of the petitioner that a person namely, A.Paramasivan, S/o. Arunachalam was appointed as Office Assistant in the Government High School, Palavoor, Tirunelveli District in the year 1991. After his appointment in the above said school, he was transferred to various schools and finally, to the third respondent school and he died on 02.12.2009 due to his ailment.

3.The learned counsel for the petitioner would submit that at the time of the deceased's appointment as Office Assistant, he submitted a community certificate obtained from the Thasildhar, Nanguneri, Tirunelveli District on 16.09.1980 and as per the community certificate he belongs to Hindu Sholaga Community. The 4th respondent conducted an enquiry regarding his community certificate and came to the conclusion that the petitioner's husband did not belong to the said community and he belongs to Sholagan @ Sholagar @ Thondaimaan and he only belongs to Most Backward category and regarding the Hindu Sholaga Community is concerned, it comes under Schedule Tribes and hence, the 4th respondent cancelled his community certificate on 16.09.1980. As against the above cancellation of his community certificate by the 4th respondent, the deceased has filed a writ petition in W.P.(MD) No.19265 of 1996 before this Court in the year 1996 itself and the same was decided on 28.01.2004 quashing the impugned order passed by the District Collector on 28.11.1996 and observed that "in this context the Supreme Court has held repeatedly that cancellation of the community certificate can only by a properly constituted Vigilance Committee in terms of the directions of the Supreme Court in S.P.Mathvri Vs. Union of India (1998 L.I.C., 2292) and in the result the petitioner is entitled to succeed and the impugned order is quashed subject to the liberty of the respondents to proceed afresh only by instituting an enquiry by a properly constituted Vigilance Committee and the writ petition was allowed".

4.After the disposal of the writ petition the said community certificate of her husband was referred to the 2nd respondent for ascertaining the genuineness of the said community certificate and also to give a report to that effect by means of a proceedings No. A4/WSR 15/1997 dated 06.04.2004. In the meantime her husband expired and the petitioner was given a notice regarding the said enquiry calling upon her to attend the enquiry proceedings on 25.02.2011. The petitioner has also appeared before the authorities on the said date and produced various evidence regarding her community as Hindu Sholaga. At later point of time, after conducting the enquiry the



said community certificate was found as not genuine one and the second respondent cancelled the same by proceedings dated 11.03.2011 in Neemu (A4)/39685/2009. As per the said order, her husband community certificate was cancelled. In the mean time, she sent a requisition to the 4th respondent to disburse the terminal benefits of her husband and also the other benefits. The first respondent had passed an order rejecting the same, stating that her husband's service was not regularised, contending that the rejection was only on the dispute regarding the community certificate alone and the respondents ought to have considered the petitioner's claim, the petitioner has approached this Court again by filing the writ petition.

5.The learned counsel for the petitioner submitted that since the petitioner's husband has a lengthy period of service for more than 15 years and absolutely there is no latches on his part in rendering service as Office Assistant. The present impugned order is only consequential to the primary order of cancellation of Community Certificate and the reason given by the first respondent for non-disbursement of terminal benefits payable to the petitioner is erroneous, arbitrary and also un-sustainable in law.

6.The learned Additional Government Pleader appearing for the respondents would submit that in the above stated facts, the appointment itself is becoming illegal and hence, there is no question of sanctioning any benefits will arise and sought for dismissal of the writ petition.

7.On perusing the documents and the materials available on record, it is seen that the petitioner's husband appointment itself was in question. Since the community certificate which was produced by him, was not accepted by the department and was sent for the verification. After verifying, it was found that the said Community Certificate was not genuine and while her husband was alive, the proceedings were initiated and continued by the petitioner and defended the said proceedings on behalf of her husband. After detailed enquiry, it was found that the said Community Certificate was found to be a bogus one and not genuine and the same was also cancelled. The cancellation of the said certificate amounts to the appointment becoming illegal and hence, the respondents have rightly rejected the claim of the petitioner and this Court finds no merits on the contentions of the learned counsel for the petitioner and accepting submissions of the learned Additional Government Pleader, this Court is inclined to dismiss the writ petition as devoid of merits, accordingly this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(RTI)

/True copy/



To

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Tirunelveli District,
Tirunelveli.

+1cc to M/S.Special Government Pleader,SR. 92365

W.P.(MD) No.5478 of 2011
12.12.2017

MM

KK/GT/SAR 2/15.02.2018/ 4P- 6C/