

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34151 of 2017

Neelavathi

.. Petitioner

-vs-

1. The Project Director,
RCH, DMS Complex,
Teynampet, Chennai-6.

2. The Deputy Director,
Health Department,
Tanjore.

3. The Health Officer,
Primary Health Centre,
Thondarampattu,
Tanjore.

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 18.11.2016 and to issue necessary direction to the 2nd respondent to permit the petitioner to continue her service as scavenger before 3rd respondent, within a stipulated period as fixed by this Court.

For Petitioner :: Mr.T.P.Sekar

For Respondents:: Mr.M.Digvijaya Pandian,

1 to 3 Additional Government Pleader

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 18.11.2016 and to issue necessary direction to the 2nd respondent to permit the petitioner to continue her service as scavenger in the 3rd respondent Primary Health Centre, within a period fixed by this Court.

2. Learned Counsel for the petitioner submitted that by order dated 16.01.2002, the petitioner was appointed as Scavenger by the 2nd respondent and accordingly, the petitioner

joined duty at Thondarampattu Primary Health Centre, Tanjore. While so, during the month of October, 2012, the petitioner took 6 months leave to take treatment for her spinal cord problem. In the meanwhile, her daughter also died on 22.2.2014. Therefore, the petitioner could not join duty. After performing her daughter's last rites, the petitioner approached the 3rd respondent, namely, Health Officer, Primary Health Centre, Thondarampattu, Tanjore on 1.4.2014 with a request to permit her to continue as a Scavenger. Since she was not permitted to continue her work as scavenger, she made a representation dated 4.6.2016 to the 2nd respondent seeking the said relief and also served copies to the respondents 1 and 2 on 13.6.2016. Though a direction has been issued by the 3rd respondent to the 2nd respondent to consider his representation dated 4.6.2016, no order was passed by the 2nd respondent. Hence, she served a legal notice dated 28.9.2016 to the respondents 1 and 2. Thereafter, the 2nd respondent communicated a letter dated 20.10.2016 stating that as per their letter dated 15.11.2012 and 17.7.2013, the petitioner was advised to report duty and since she failed to report duty, another person was appointed as Scavenger as per the resolution passed by Patients' Welfare Association. The petitioner made another representation dated 18.11.2016 to the respondents 1 and 2 once again. Since no order has been passed on the same, the petitioner is before this Court with this Writ Petition.

3. Heard the learned Counsel for the petitioner and Mr.M.Dig Vijaya Pandian, learned Additional Government Pleader appearing for the respondents 1 to 3.

4. Though it is submitted by the learned Counsel for the petitioner that without even passing any termination order against the petitioner, the respondents cannot refuse to give her employment, a perusal of the typed set of papers shows that the petitioner has not obtained any prior permission before going on leave for taking treatment for her spinal cord problem. Again she gave a lame excuse that her daughter died on 22.2.2014 and even after the death of her daughter, it is not known why she kept quite for more than 6 months. For all the above, there is no explanation on the side of the petitioner. Therefore, this Court is not inclined to allow the present Writ Petition.

5. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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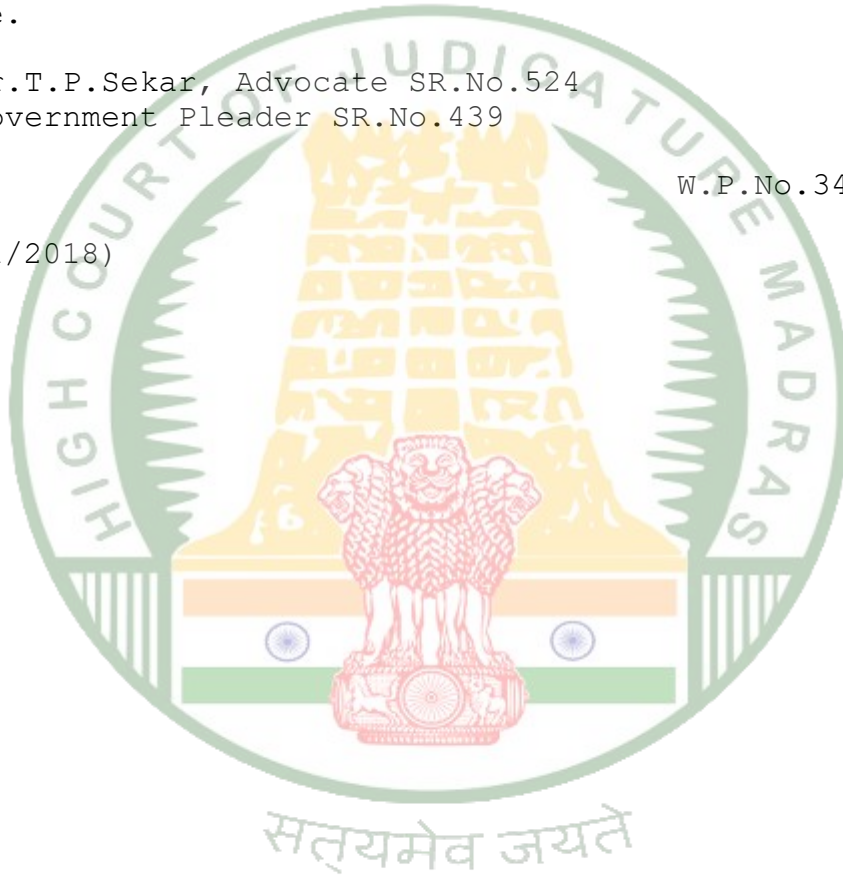
To

- 1.The Project Director,
RCH, DMS Complex,
Teynampet, Chennai-6.
2. The Deputy Director,
Health Department,
Tanjore.
3. The Health Officer,
Primary Health Centre, Thondarampattu,
Tanjore.

+1cc to Mr.T.P.Sekar, Advocate SR.No.524
+1cc to Government Pleader SR.No.439

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