

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34228 of 2017 and
WMP.No.38113/2017

A.Meena

.. Petitioner

-vs-

The District Collector,
Nilgiris District,
O/o.The District Collector,
Near Charring Cross,
Udhagamandalam-643 001.

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the respondent bearing No.101/Ma.Ku.Pa.Aa/2017 dated 11.12.2017 and quash the same and consequently, direct the respondent to reinstate the petitioner as the Protection Officer (Institutional Care) for the District Child Protection Society, Nilgiris District.

For Petitioner :: Mr.T.Gowthaman

For Respondent :: Mr.V.Jayaprakash Narayanan,
Special Government Pleader

ORDER

Challenging the termination order passed against the petitioner by the respondent dated 11.12.2017, the present Writ Petition has been filed.

2. Learned Counsel for the petitioner submitted that the petitioner was appointed as Protection Officer (Institutional Care) by the respondent through a Contractual Service Agreement dated 27.08.2012 and the said appointment was initially for a period of one year and the same was extended from time to time based on his Annual Performance Report. Such extensions were given to the petitioner three times and finally on 5.09.2017. While so, all of a sudden, the respondent has issued a Charge Memo on 24.11.2017, asking the petitioner to offer her explanation within seven days for four charges and the same was served on the petitioner on 04.12.2017. On receipt of the said Charge Memo, within two days, the petitioner has submitted a detailed reply on 06.12.2017 denying all the charges thinking

that her explanation would be accepted and the charges would be dropped. But, all of a sudden, the respondent passed a three line impugned order of termination dated 11.12.2017 stating that the performance of the petitioner was not satisfactory. The said approach adopted by the respondent, is wholly unjustified, unacceptable. Under such circumstances, according to the learned Counsel for the petitioner, the respondent ought to have conducted an enquiry and passed appropriate orders. But, after accepting the reply of the petitioner, without holding any enquiry, the impugned order has been passed. Therefore, the same is liable to be dismissed.

3. Heard Mr.V.Jayaprakash Narayanan, learned Special Government Pleader who took notice for the respondent.

4. I do not find any merit in the writ petition for two reasons. Firstly, the petitioner was appointed only on the basis of contractual service agreement initially dated 27.08.2012 and she was given extension thrice. Finally, the extension was given by Contractual Service Agreement dated 5.9.2017 for a period of one year on 05.09.2017. As per Clause 5 of the said agreement, the rights and obligations of the Signatory are strictly limited to the terms and conditions of the agreement. Secondly, as per Clause 6 of the agreement, either party may rescind the agreement at any time by giving the other party at least 30 calendar days notice in writing of its intention to do so. Further, as per Clause 7 of the agreement, in case of improper conduct and/or unsatisfactory performance by the Signatory, having regard in particular to the terms and reference mentioned above, DCPS shall terminate the agreement and no compensation shall be payable in such case. The above said clauses clearly show that the rights and obligation of the petitioner are limited to the terms of the agreement. A cursory reading of Clause 4 of the agreement shows that the Signatory shall have the status of a temporary contractual employee and shall not be considered in any respect as a regular staff of DCPS. Therefore, for the simple reason that the petitioner was issued with the Charge Memo dated 24.11.2017, which was served on her on 4.12.2017 for which she has also submitted her explanation on 6.12.2017, the petitioner cannot insist upon the respondent to hold enquiry after appointing an Enquiry Officer because there is no such rule framed to regulate the service conditions of the contractual appointee. This apart, it appears that the charge memo was given on 24.11.2017 for which the petitioner has given her explanation on 6.12.2017 and only thereafter, the impugned order has been passed. Under such circumstances, for the reason that the impugned order does not mention anything about the charges or explanation of the petitioner, the petitioner cannot come to this Court.

5. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

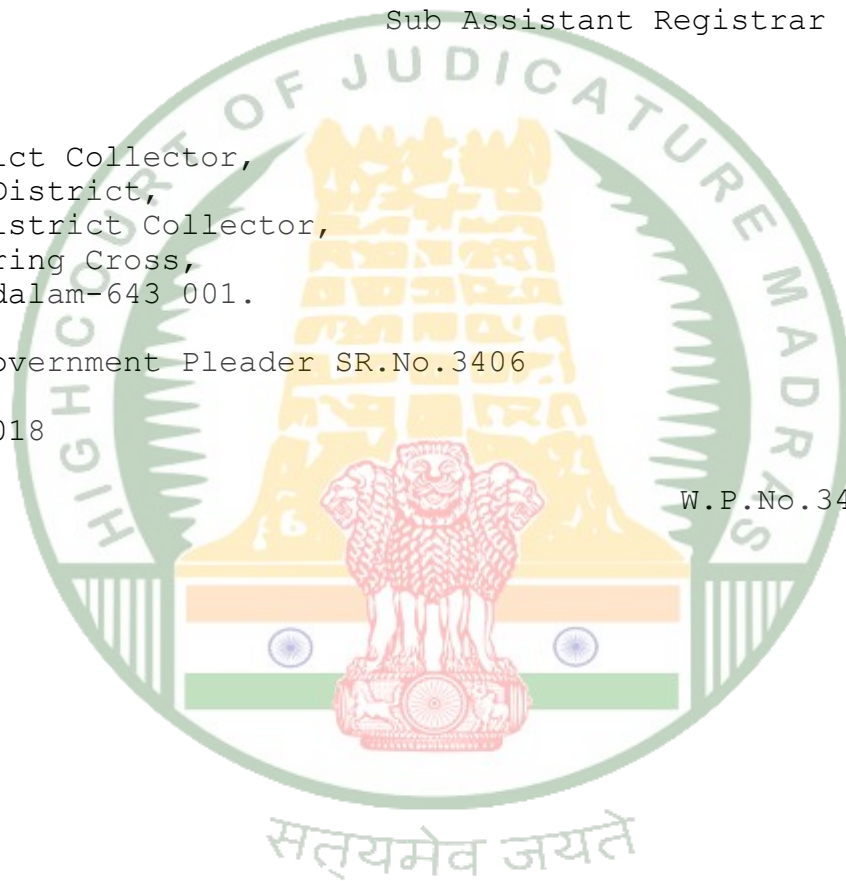
tsi
To

The District Collector,
Nilgiris District,
O/o.The District Collector,
Near Charring Cross,
Udhagamandalam-643 001.

+1cc to Government Pleader SR.No.3406

sm:25.1.2018

W.P.No.34228 of 2017



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