

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

W.P.No.35357 of 2012
and
M.P.No.1 of 2012

B.Pitchandi .. Petitioner/Petitioner

Vs

- 1.The Principal District Judge of
Kanchipuram at Chengalpet.
- 2.The District Munsif cum
Judicial Magistrate,
Thirukalikundram. ... Respondents/Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents to reinstate the petitioner in service in the post of Night Watchman or Watchman or Office Assistant with continuity of service with effect from 11.03.2009 with all monetary and service benefits.

For Petitioner ... Ms.M.Srividhya

For Respondents .. Mr.C.T.Mohan

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Seeking a direction to the respondents to reinstate the petitioner in service in the post of Night Watchman or Watchman or Office Assistant with continuity of service with effect from 11.03.2009 with all monetary and service benefits, the present writ petition has been filed.

2.The petitioner was appointed temporarily as Night Watchman by proceedings dated 10.01.2008. He joined duty on 21.01.2008 and on 13.03.2009, a letter was given by the

petitioner requesting to relieve him from the service permanently. Accepting the aforesaid letter, the petitioner was relieved by the proceedings dated 20.05.2009 with effect from 13.03.2009. This is for the reason that after furnishing the letter, the petitioner, for the reasons known to him, chose not to attend the work. Thereafter, the petitioner woke up from the slumber and made a representation on 30.05.2011, seeking reemployment. Since the abovesaid representation was not considered, the present writ petition has been filed after more than three years from the date of relieving order.

3.Learned counsel appearing for the petitioner by placing reliance on the medical certificate dated 30.12.2012 has submitted that the petitioner was not having good mental health at the relevant point of time. Therefore, considering the scope of Section 47 of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the writ petition will have to be allowed.

4.Learned counsel appearing for the respondents would submit that at the time of relieving, the petitioner never stated about the illness. Therefore, the aforesaid order was passed on the request made by the petitioner. The request made is only an afterthought. There is no right vested with the petitioner with the corresponding duty on the respondents to take him back in the absence of any Rules. Thus the writ of mandamus would not lie.

5.We do not find any merit in the writ petition. Admittedly, the petitioner was appointed on temporary basis as a Night Watchman. He was relieved on his request. The request for relieving did not say anything about the mental illness. The order relieving the petitioner has not been challenged and the present writ petition has been filed after more than three years. There is no law which requires consideration of the petitioner's belated request. The medical certificate produced before this Court cannot be looked into at this stage. Thus, looking from any perspective, we do not find any ground to grant the relief prayed for by the petitioner. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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To

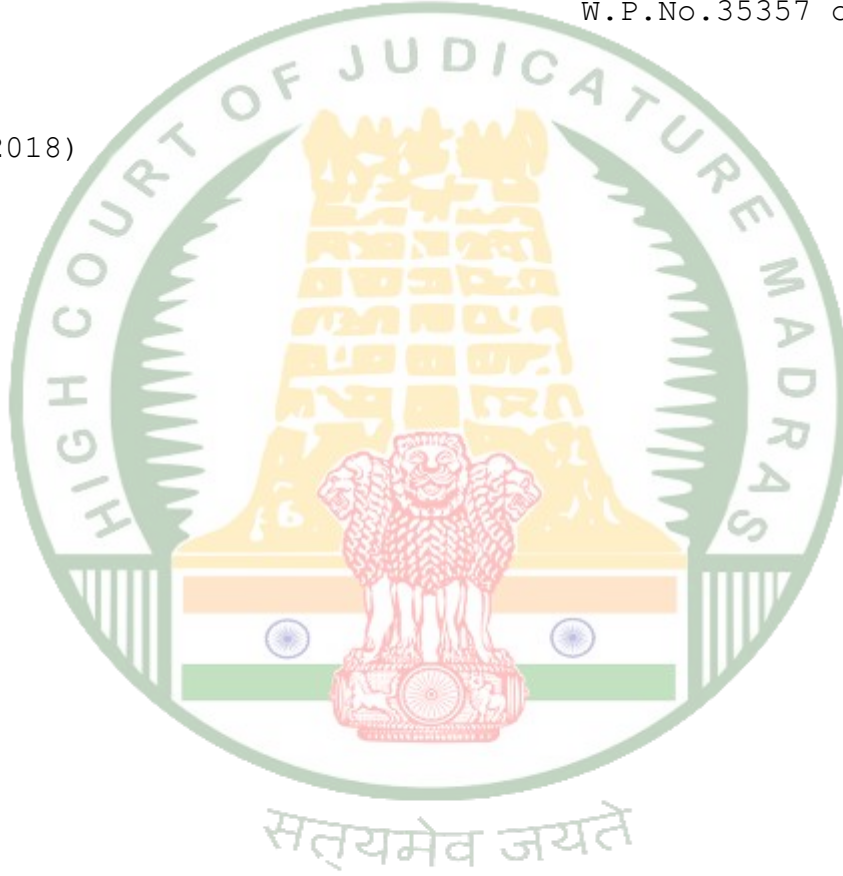
1.The Principal District Judge of
Kanchipuram at Chengalpet.

2.The District Munsif cum
Judicial Magistrate,
Thirukalikundram.

+1cc to Mr.M.SRIVIDHYA, Advocate, S.R.No. 47961

W.P.No.35357 of 2012

CA(CO)
TR(31/07/2018)



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