

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28387 of 2008

and

M.P.No.1 of 2008

T.Ranganayagi

... Petitioner

Vs.

1. The Collector cum Chairman,
Continuing Education,
Nagapattinam.
2. The Secretary Continuing Education/
District Education Officer,
Nagapattinam.
3. The District Project Co-ordinator,
Continuing Education, Nagapattinam.
4. The Commissioner,
Panchayat Union, Myladuthurai.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the proceedings issued in Na.Ka.No.126/2008 Va.Ka.E. dated 19.11.2008 passed by the 2nd respondent and quash the same and consequently, direct the respondents to allow the petitioner to continue as Block Project Co-ordinator.

For Petitioner : M/s.S.Ilamvaludhi

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

This Writ Petition has been filed to call for the records connected with the proceedings issued in Na.Ka.No.126/2008 Va.Ka.E. dated 19.11.2008 passed by the 2nd respondent and to quash the same, and consequently, to direct the respondents to allow the petitioner to continue as Block Project Co-ordinator.

2. The case of the petitioner is that she had completed B.Sc Graduate and was appointed as Block Project Co-ordinator by the Collector on 28.03.2005 by a proceeding in Na.Ka.No.12365/2004/Oo.Va.9/Va.Ka.E. According to the petitioner, she discharged her duties to the best of her ability.

3. The petitioner would contend that she obtained loan from the Government and distributed the same to the down graded people of the society, for which, she was appreciated by the Collector as well as by her superiors. The petitioner would also contend that on 19.11.2008, a charge memo has been issued to her by the Commissioner of Panchayat Union, Myladuthurai, by a proceedings in Na.Ka.No.1366/05/A4 dated 11.11.2008, alleging that on 05.11.2008, a meeting was conveyed by the Collector, Nagapattinam, at that time, the petitioner was sitting in the Women Project Officer room and discussed other issues irrelevant to the meeting, and she was asked to give her reply to that memo within a week.

4. The petitioner would further contend that she gave her reply to the said memo on 21.11.2008 and received acknowledgment from the Commissioner on 24.11.2008. While so, the Secretary, Continuing Education/District Education Officer, all of a sudden issued a proceedings in Na.Ka.No.126/2008/Va.Ka.E dated 19.11.2008, stating that the petitioner has been discharged from the duties. Hence, the petitioner has filed this Writ Petition before this Court, to quash the proceedings of the 2nd respondent dated 19.11.2008 and to direct the respondents to allow her to continue as Block Project Co-Ordinator.

5. Denying the above contentions of the petitioner, a counter affidavit has been filed by the 4th respondent, wherein, it has been contended that the statement of the petitioner that she obtained loan from the Government and distributed the same to the down graded people of the society, for which, she was appreciated by the Collector as well as by her superiors, is false. Further, the respondent would contend that the petitioner, namely, T.Ranganayagi, was selected by the ZSS Committee, under the Presidentship of District Collector and appointed as Block Project Co-ordinator, Mayiladuthurai, as per the proceedings of the District Collector/President, Valarkalvi Iyakkam, Nagapattinam R.C.No.12365/2004 R.D.9/V.K.I. dated 28.03.2005. The said appointment as Block Project Co-ordinator, Mayiladuthurai, was ordered insisting the following conditions:-

i) The appointment is purely temporary and no preference will be claimed for the appointment.

ii) The appointment will be terminated at any time

by the District Collector / President of the Valarkalvi Iyakkam without assigning any reasons.

iii) The appointee should discharge her duty around the scheme period which will be entrusted to her by giving assurance in a prescribed format before joining the duty.

iv) This appointment will not come under the per view of the rules and regulations in force and this appointment suppose to be a temporary and all discretion lies in the per view of the ZSS Committee.

v) The Block Project Co-ordinator should join duty within the week time failing which the appointment order will be cancelled.

vi) The Honorarium for this appointment will be decided by the ZSS Committee afterwards.

6. The respondent would further contend that the petitioner joined duty on 05.04.2005 and her monthly honorarium was fixed as Rs.3,500/- per month. During the Executive Committee Meeting held on 02.06.2005, the petitioner was incharge of entire Jurisdiction of Mayiladuthurai Panchayat Union area, which consisting of 54 Panchayats, one Town Panchayat and one municipality. There are 54 Continuing Education Centres and 6 Nodal Centers functioning and they were monitored by the petitioner.

7. The respondent would also contend that the main object of the Continuing Education Programme is to give education to those who were identified as illiterates in each Panchayats. The said Continuing Education Programme Centres were supplied infrastructure facilities such as Steel Table, Chair, Plastic Chair, Steel Almirah, Desk with Bench and Steel Rock etc., The learners were supplied Ariyozhi Dheephani - I, II & III in the form of Books, Slate and Slate Pencil, Note Book, Block Lead Pencil, Block Board, Chalk Piece, Emergency Lamp, Library Books. Apart from that, the learners were also supplied Sports Materials such as Foot Ball, Cricket Bat and Ball, Caramboard, Chess, Volley Ball, Ring Ball, Tennis Ball and Skipping Rope etc. As such, the Continuing Education Centres have been fully equipped with learning materials for the use of the learners and the learners have been taught with one Prerak and Additional Prerak of each Centre and Nodal and the Additional Nodal for each Nodal Centres appointed by the District Collector/President, Continuing Education Programme, Nagapattinam District.

8. Furthermore, the respondent would contend that in Para 5 of the Continuing Education Programme Guidelines, it was mentioned that the allocation of fund by the Government should be utilized for the period, for which it was sanctioned. Accordingly, the fund released by the Government of India was enough for payment to the employees of the Valarkalvi Iyakkam for a period of six months alone. In as much as the employees were paid more than six months and no fund was available, their services necessarily to be changed as volunteers. Moreover, the respondent would contend that a proceedings in R.C.No.7/2005 V.K.I. Dated 06.01.2007 was issued to the following category and numbers of the employees who were paid from the Continuing Education Programme Fund, as volunteers with effect from the date of issue of the proceedings:

1. Block Project Co-ordinator	-	11
2. Nodal	-	47
3. Asst. Nodal	-	47
4. Prerak	-	424
5. Asst. Prerak	-	424
Total		953

9. The respondent would further contend that in view of the above notification, the petitioner was no longer designated as Block Project Co-ordinator and she is suppose to be only volunteer. Moreover, she was relieved from the post of Block Project Co-ordinator from 06.01.2007 onwards. Therefore, the allegation of the petitioner is baseless and it has to be rejected.

10. The respondent would also contend that it is one among the work entrusted to Block Project Co-ordinator that they should create new Self Help Groups encouraging the Self Help Groups and renewed the Self Help Groups which are not properly functioning. In view of the Instructions, the petitioner has taken action and formed Self Help Groups in her Jurisdiction, but, she failed to report those details to the District Collector. As such, the petitioner acted as convener at own accord of the Self Help Groups without getting any permission from the District Collector. Moreover, the respondent would contend that a meeting was organized on 05.11.2008, to review the progress achieved by the Bankers and Project Officer, Mahalir Thittam. The said meeting was purely conducted for officials only. But, the petitioner, discussing the irrelevant subject, entered the meeting hall with an intention to interfere and abstracting the Government transacting business. She was not even obtained permission either from the Block Development Officer or from the Project Officer, Mahalir Thittam, to enter

on the meeting hall. Even though the District Collector and Project Officer, Mahalir Thittam, instructed the petitioner to vacate the meeting hall, the petitioner disobeyed the instructions of the District Collector without any moral delinquency abstracting the Government transacting business at her own accord.

11. In addition to the above, the respondent would contend that as per the instructions of the District Collector and Project Officer, Mahalir Thittam, a Show Cause Notice in R.C.No.1366/2005 dated 11.11.2008, was sent to the petitioner on 12.11.2008 (served on the petitioner on 19.11.2008) as to why disciplinary action should not be taken against her, as she was disobeyed the instructions of the District Collector in the meeting held on 05.11.2008, and further, she was instructed to submit her explanation to the charges within a week from the date of receipt of a copy of the notice. In the meantime, the Secretary/District Educational Officer, Continuing Education Programme, by proceedings in R.C.No.126/2008 V.K.I. Dated 19.11.2008, ordered the petitioner to relieve from duty. The said proceedings was received by the petitioner on 25.11.2008 and the petitioner had submitted her explanation to the Show Cause Notice on 21.11.2008.

12. The respondent would further contend that the memo, calling for the explanation duly served on 11.11.2008 and since the petitioner was not available in residence from 11.11.2008 to 18.11.2008, the same was served to her on 19.11.2008. Therefore, the contention of the petitioner that the memo dated 11.11.2008 has been issued to her only on 19.11.2008, cannot be accepted and it has to be rejected. Moreover, the respondent would contend that the petitioner wantonly evaded to accept the Show Cause Notice in time and therefore, she is responsible for the delay. Further, in appointment order, it was mentioned that the appointment of the petitioner will not come under rules and regulations now in force, hence, action need not be taken under Rule 17(b) CCA (D & A) rules to impose punishment against the petitioner.

13. In the above circumstances, the respondent prays before this Court that the order challenged in this Writ Petition is not impugned and does not violate any rules and regulations of the Continuing Education Programme and hence, sought for dismissal of this Writ Petition.

14. Heard both sides and perused the materials available on records.

15. On perusal of the records, it could be seen that the

petitioner was appointed to the post of Block Project Co-ordinator, only on a temporary basis and therefore, she has no rights to claim that she has to be allowed to continue in the said post. Further, in the meeting held on 05.11.2008, the petitioner, without getting prior permission from the Superiors, had entered the meeting hall discussing irrelevant subject, and therefore, she was instructed to leave the meeting hall by the District Collector and Project Officer and further she was issued with a Show Cause Notice dated 11.11.2008, as to why disciplinary action should not be taken against her for disobedience.

16. The learned Government Advocate has produced the proceedings of the District Collector/President Valarkalvi Iyakkam, Nagapattinam District, wherein, an order has been passed to the following effect:-

"The Joint Secretary, National Literacy Mission Government of India and the Directorate of Non Formal and Audit Education, Chennai have informed in their D.O.Letter 1 and 2nd cited that the Continuing Education Programme is to be closed on 31st March 2009 and further informed no expenditure will be incurred on or after 31.03.2009.

Consequent on the disbandment of the post sanctioned for Continuing Education Programme for Nagapattinam District is hereby ordered to be closed and the staff appointed for Continuing Education Programme in Nagapattinam District and the staff working in District Office are relieved from duty on the A.N. of 31.03.2009."

17. Based on the above order of the District Collector/President Valarkalvi Iyakkam, Nagapattinam District, the Secretary of Valarkalvi Iyakkam/District Educational Officer, namely, Thiru.N.Muthukaruppan, has issued a proceedings dated 31.03.2009 to all the Block Development Officers to the following effect:-

"I invite your attention to the proceedings cited, wherein, it was ordered that the Staff engaged in Valarkalvi Iyakkam in Nagapattinam District has been relieved on 31.03.2009 on account of Valarkalvi Iyakkam Scheme has been ordered to be closed on 31.03.2009. In view of disbandment of the post, I request you to give instructions to the Prerak's and Nodal Prerak's of Valarkalvi Iyakkam Centres, to handover the Materials, Library and Other Materials to the Head Master of Nearby Schools and obtained acknowledgment from them."

18. In view of the above order of the District Collector/President Valarkalvi Iyakkam, Nagapattinam District, it could be seen that the Continuing Educational Programme, Nagapattinam District, was ordered to be closed on 31st March 2009 and the Staff appointed for the said programme and the Staff working in District Office, were also ordered to be relieved from duty on 31.03.2009, and accordingly, the entire project of Valarkalvi Iyakkam, Nagapattinam District, have been closed on 31.03.2009 and the Staffs appointed for the said Iyakkam, have also been relieved from duty on 31.03.2009. In view of the same, the post of the petitioner herein, was also disbanded. Hence, nothing survives in this Writ Petition.

19. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Collector cum Chairman,
Continuing Education,
Nagapattinam.
2. The Secretary,
Continuing Education/District Education Officer,
Nagapattinam.
3. The District Project Co-ordinator,
Continuing Education, Nagapattinam.
4. The Commissioner,
Panchayat Union, Myladuthurai.

+1cc to Mr.R.S.Selvam, Advocate, S.R.No.50899

+1cc to the Government Pleader, S.R.No.51313

W.P.No.28387 of 2008
and

M.P.No.1 of 2008

SSD(CO)
GSP(11/02/2019)