

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 21.08.2018****CORAM:****THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN****W.P. (MD) No.18211 of 2018****and****W.M.P. (MD) Nos.16114 of 2018**

M.Jeyanthi

... Petitioner

Vs.

1. The Director General of Police,
Mylapore,
Chennai - 600 004.

2. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings R.C.No.107410/Rect.1(2)/2017, dated 02.06.2018, received by the petitioner on 15.06.2018 and quash the same as illegal.

For Petitioner

: Mr.M.Natarajan

For Respondents

: Mr.R.Sethuraman,

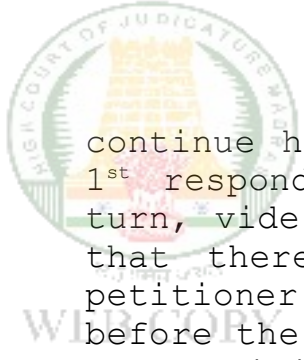
Spl.Government Pleader

ORDER

The present Writ Petition has been filed to quash the impugned order passed by the 1st respondent in his proceedings in R.C.No.107410/Rect.1(2)/2017, dated 02.06.2018, as illegal.

2. The learned counsel appearing for the petitioner submitted that the petitioner was initially appointed as a Grade II Women Police on 01.04.2010 at 9th Battalion, Manimuthar, Palayamkottai. While the petitioner was working at Thalaimuthu Nagar Police Station on 01.06.2017, due to family circumstances, she tendered her resignation on 12.06.2017 and the same was accepted by the 2nd respondent and she was relieved from the service on 05.11.2017 ie., after 15 days from the date of her resignation.

3. The learned counsel for the petitioner would further submit that on 13.07.2017 and on 16.08.2017, the petitioner made a representation to the respondents to cancel her resignation and to



continue her service as Grade II Women Police. Accordingly the 1st respondent forwarded the same to the 2nd respondent, who in turn, vide proceedings dated 22.01.2018, rejected the same stating that there is no provision for re-appointment. Therefore, the petitioner has preferred a Mercy Petition, dated 13.02.2018, before the first respondent and since the same was not considered, the petitioner preferred a Writ Petition in W.P.(MD)No.3888 of 2018 before this Court and this Court passed an order, dated 01.03.2018, observing that whenever a person wants to resign from service, counselling must be conducted and that the first respondent must see, if the very acceptance of the resignation was proper or not. The petitioner's case shall not be rejected merely on the ground that she is not entitled for re-consideration.

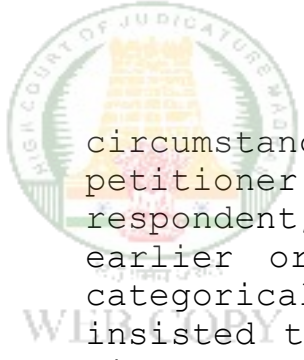
4. The learned Special Government Pleader appearing for the respondents would submit that the petitioner's case has not been merely rejected on the ground that she is not entitled for re-consideration. After the orders of this Court, a detailed order has been passed, which is the subject matter of the writ petition. The acceptance of resignation is mentioned in Section 50 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which is extracted below:-

"S.50.Acceptance of resignation-(1) A Government servant may resign his appointment by giving notice of not less than three months in writing direct to the appointing authority with a copy marked to his immediate superior officer. The period of three months notice shall be reckoned from the date of receipt of such notice by the appointing authority.

(2)The Government servant may withdraw the notice of his resignation before its acceptance and withdrawal of resignation shall be permitted after its acceptance by the appointing authority.

(3)The appointing authority shall issue orders on the notice of resignation before the date of expiry of notice, either accepting the resignation from a date not later than the date of expiry of the notice or rejecting the same, giving the reasons therefor. If no such order is passed, the resignation shall be deemed to have been accepted on the expiry of the period of notice.."

5. In terms of the said provision, the petitioner's resignation was accepted and request to re-consider the appointment after her resignation on account of family indigenous



circumstances was not considered. He would also submit that the petitioner has also submitted a representation to the first respondent, on 16.08.2017, which was not referred to in the earlier order of this Court and in that, the petitioner has categorically stated that she joined a school and that they have insisted that the petitioner should resign from the present work first and thereafter, she should join the school. When that was the reason for taking up the resignation, the question that the petitioner submitted her resignation on account of her family circumstances cannot be accepted.

6. I have heard the submissions made on either side and perused the materials available on record.

7. On perusal of the representation of the petitioner, dated 16.08.2017, to the first respondent, would reveal the fact that if the petitioner is appointed in the school, there will be a communal clash and on that ground even though the petitioner has resigned the job from the respondent, the school has not provided the employment and hence, she made a representation to the respondents, seeking re-employment. It is also categorically stated that there is no provision in the Special Rules about giving counselling to the persons, who are resigning their jobs. Unless there is a specific Rules permitting for counselling, there is no need for counselling before accepting the resignation. Even the petitioner has accepted that the learned Judge in the earlier writ petition has ordered for counselling only on humanitarian ground. The petitioner ought to have stated a genuine reason for resigning the job, which has not been disclosed. Had the petitioner stated the genuine reason, the situation would have been different for the respondent to consider the case. However, applying the Section extracted supra, the petitioner will not be entitled to any relief. The Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

SD

ASSISTANT REGISTRAR (PROTOCOL)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS III)

To

1. The Director General of Police,
Mylapore, Chennai - 600 004.

2. The Superintendent of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Thoothukudi District, Thoothukudi.



1CC TO MR. M. NATARAJAN, ADVOCATE SR 79822
1CC THE SPL GOVT PLEADER SR 79847

mpk

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