



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.24318 of 2016 and

W.M.P.(MD) Nos.17564 of 2016 and 18068 of 2017

Mary Shanthi

... Petitioner

-vs-

1. The District Collector,
Tirunelveli District.
2. The District Project Officer,
(Integrated Child Development Service),
O/o.The District Collector,
Tirunelveli District.
3. The District Project Officer,
(Integrated Child Development Service),
Old Taluk Office, Nagercoil,
Kanyakumari District.
4. The Child Development Project Officer,
Pappakudi Area, Mukkoodal,
Tirunelveli District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 26.10.2016 issued by the 1st respondent by his proceedings Se.Mu.Na.Ka.No. 1776/A1/2016 and quash the same and consequently direct the 4th respondent to permit the petitioner to resume the work as an Anganwadi WOrker in Pappakudi Circle, Mukkoodal Centre, Tirunelveli District.

For Petitioner : Mr.V.Sasikumar
For Respondents : Mr.S.Dhayalan
Govt. Advocate

O R D E R

This petition has been filed, seeking to quash the impugned order dated 26.10.2016 of the 1st respondent in Se.Mu.Na.Ka.No.1776/A1/2016, in and by which, the petitioner was removed from service. The petitioner also sought a direction to the 4th respondent to permit her to resume work as an Anganwadi Worker in Pappakudi Circle, Mukkoodal Centre, Tirunelveli District.

**Brief Facts:**

2. The case of the petitioner is that she was appointed as Anganwadi Worker of Pappakudi Circle, Tirunelveli District and pursuant to the torture meted out by her at the hands of her husband, she stayed back at her parents' house along with her children at Kanyakumari District. Subsequently, she had fallen into sick and taken treatment at the Government Hospital, Kanyakumari District and therefore, she applied for leave from 21.12.2015 to 04.01.2016;

2.1. It is the further case of the petitioner that though she sought for transfer on account of her husband's cruelty, her request was declined and thereafter, when she attempted to resume duty, she was not allowed to join duty by the 4th respondent, which made her to approach the 1st respondent for suitable orders. Subsequently, though she was transferred to Kaliyal Village, Kanyakumari District, no communication was furnished to her and on 20.04.2016, an explanation was sought from her as to why she should not be removed from service and though she had submitted a detailed explanation, she was dismissed from service without considering the same citing the reason of her unauthorized absence from duty.

2.2. It is the grievance of the petitioner that though she was ready to join duty, she was not permitted to join duty and later on, she was dismissed from service with mala fide intention and therefore, having left with no other efficacious remedy, she is before this Court.

3. Learned Government Advocate appearing for the respondents, by drawing this Court's attention to the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka and others vs. Ameerbi and others**, reported in **(2007) 11 SCC 681**, would submit that persons working as Anganwadi Workers do not hold civil posts and their posts are not statutory posts, as the said posts are created under a scheme. He would further submit that Anganwadi workers do not carry on any function of the State. Anganwadi workers are supposed to be present in the place to which they are attached so as to take care of downtrodden, poor children etc and since she had absented herself from staying away from work without prior permission, her services have been disengaged as per G.O.Ms.No.4 Social Welfare and Nutritious Meals Programme dated 09.01.1995. It is further stated the petitioner, without exhausting the appeal remedy before the Director, ICDS Programme, Chennai, has straightaway approached this Court for appropriate remedy and therefore, this petition is not maintainable and is to be dismissed in limine.

4. Heard the learned counsel for the petitioner and the Government Advocate appearing for the respondents. This Court also perused the material documents available on record.



5. It is the submission of the learned counsel for petitioner that the petitioner has already filed an affidavit consenting to give up her backwages. He has further stated that there was a violation of principles of natural justice, as no opportunity of hearing the petitioner was afforded. It is pertinent to mention here that when the petitioner, who was asked to take care of children absented herself, thereby leaving them at lurch, no leniency can be shown to her and in the guise of principles of natural justice, the children, who were entrusted to the petitioner, should not be put to hardship. Hence, I do not find any reason whatsoever to interfere with the order impugned in this writ petition.

6. Accordingly, this Writ Petition is dismissed. However, this order will not preclude the respondents herein, if they desire so, from giving an opportunity to the petitioner to serve in some other far off place so as to utilize her service and experience in Anganwadi related works. If the petitioner's request is considered, she must reside within a distance of 10kms from the Anganwadi Centre. This observation to give another chance does not mean that the petitioner is entitled to this post as a matter of right.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-I)

To:

1. The District Collector,
Tirunelveli District.
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O/o.The District Collector,
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+1 CC To MR.V.SASI KUMAR, Advocate SR. NO. 84840

W.P. (MD) No.24318 of 2016
17.09.2018

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