

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM

THE HON'BLE MR. JUSTICE M.VENUGOPAL

AND

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6864 of 2019

Thangammal

... Petitioner

vs.

1.The Hon'ble Principal District Judge,
District Court,
Perambalur.

2.The Hon'ble Registrar General,
Madras High Court,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to dispose of the appeal petition dated 18.06.2018 for considering waiver of punishment.

For Petitioner : Mrs.C.Sangamithirai

For Respondents : Mr.M.Kempuraj

ORDER

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

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents 1 and 2. No Counter is filed on behalf of the Respondents 1 and 2.

2.According to the Petitioner, she is presently working as 'Junior Assistant' in the Judicial Magistrate Court, Perambalur. Earlier, she was serving as 'Examiner' in the Sub Court, Perambalur 'on deputation' from the Principal District Court, Perambalur from 11.03.2013 to 17.10.2014. Later, she was posted to Judicial Magistrate Court, Perambalur.

3.It comes to be known that the Petitioner was dealt with departmentally on a charge under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 in DP.No.01/2015. Indeed, she was served with a charge memo for the purported lapses said to have been committed by her, while she was serving as 'Examiner' in the Sub Court, Perambalur.

4.At this stage, the Learned Counsel for the Petitioner submits that the charge levelled against the Petitioner is for 'neglect of duty for having lost the deposition of P.W.3 in O.S.No.268 of 2005 on the file of the District Munsif Court, Perambalur and in A.S.No.9/2013 on the file of the Sub Court, Perambalur and also failure to carry out the instructions of the Superior Officer to trace the missing deposition in the said case, despite the instructions being issued in two Memorandums dated 20.11.2014 and 04.06.2015'.

5.The Learned Counsel for the Petitioner proceeds to point out that the Memorandums dated 20.11.2014 and 04.06.2015 were issued to the Petitioner by the Learned Sub Judge, Perambalur, after the Petitioner's transfer to Judicial Magistrate Court, Perambalur and she had submitted her explanation presuming that the missing deposition of P.W.3 might have misplaced in some other case bundles and that she would trace out the same. In the interregnum, she was served with a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 by the Learned Sub Judge, Perambalur and that the Learned Sub Judge, Mahila Court, Perambalur conducted Domestic Enquiry by recording the statements of two prosecution witnesses and two defence witnesses. In fact, the Petitioner had submitted her explanation with a copy of proof evidence to the charge levelled against her, explaining that she was not guilty of the charge, since she has not lost the deposition of P.W.3 in O.S.No.268 of 2005. However, the explanation, according to her, was not considered and the Enquiry Officer came to the conclusion that 'the charge levelled against the Petitioner was proved'.

6.The Learned Counsel for the Petitioner brings it to the notice of this Court that the Petitioner was imposed with a Punishment of 'withholding one increment without cumulative effect' and the said Punishment was imposed at the verge of her next promotion which caused untold mental agony to her. The said Punishment Order was served on the Petitioner on 20.04.2018. She has projected an Appeal before the Appellate Authority within the prescribed time limit of 60 days.

7.It is not in dispute that the Appeal filed by the Petitioner is pending before the Second Respondent/High Court, Madras. It transpires that the Second Respondent had addressed a letter in Roc.No.49229/2018/C1 dated 14.08.2018 to the First Respondent/Principal District Judge, Perambalur. It comes to light that the Material Records of the Original Enquiry File and Service Particulars of the Petitioner in the prescribed Annexure Proforma were submitted to the Second Respondent/High Court, Madras.

8.Considering the fact that the Petitioner's Appeal dated 18.06.2018 is pending on the file of the Second Respondent/High Court, Madras, at this stage, this Court, without expressing any opinion on the merits of the matter and also not delving deep into the subject matter in issue, simplicitor, directs the Second Respondent/High Court, Madras represented by the Registrar General, to dispose of the Appeal of the Petitioner dated 18.06.2018 by passing a reasoned speaking order and advertng to the Factual and Legal pleas raised therein, within a period of six weeks from the date of receipt of copy of this order.

9.Accordingly, this Writ Petition stands disposed of, leaving the parties to bear their own costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Hon'ble Principal District Judge,
District Court,
Perambalur.

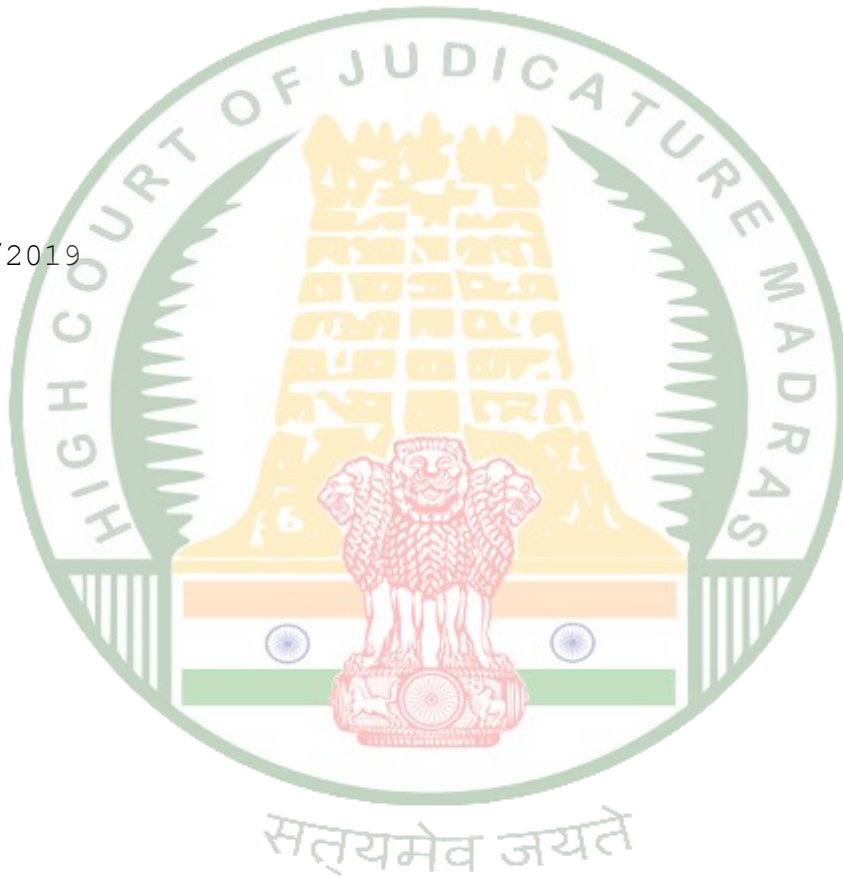
2.The Hon'ble Registrar General,
Madras High Court,
Chennai.

3.The Section Officer,
Legal Cell, High court, Madras.

+1cc to Mr.M.Kempuraj, Advocate Sr.24584
+1cc to Mr.C.Sangamithirai, Advocate Sr.23730

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