IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2019

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.23096 of 2016
and
W.M.P.Nos.19805 & 19806 of 2016

Tmt.S.Karpagam ... Petitioner

-vs-

The Joint Commissioner (Administration)
Office of the Principal Secretary/
Commissioner of Commercial Tax,
Chepauk, Chennai - 600 005. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent herein in his Proceeding No. Y2/12014/2013 dated 06.06.2016 and quash the same and consequently, direct the respondent herein to reinstate the petitioner in service with all monetary and other attendant benefits.

For Petitioner : Mr.K.Raja

For Respondent : Mr.Master Ganesh,
Government Advocate

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ORDER

This writ petition has been filed questioning the correctness of the impugned order of removal from service dated 06.06.2016, passed by the Joint Commissioner (Administration) from the Office of the Principal Secretary / Commissioner of Commercial Tax, Chennai on the ground that when the petitioner was sponsored by the Employment Exchange, Chennai to be considered for the post of Office Assistant (O.A.), after finding the suitability of the petitioner along with her marital status as 'widow' with three children, the petitioner was issued with an appointment order dated 22.11.2013. After allowing her to continue in service for a period of three years, all of a sudden, the impugned order, dated 06.06.2016, has been issued by the respondent removing her from service without affording any opportunity or holding enquiry or citing reason.

2.The learned counsel appearing for the petitioner would submit that in the Transfer Certificate produced by the petitioner, her date of birth certificate is shown as 10.06.1980, in words 10th June, 1982. The mistake has not been committed by the petitioner. In any event, had there been any notice issued to the petitioner calling for explanation, the petitioner would have explained properly that she was no way connected to the error found in the Transfer Certificate showing different date of birth. Since the respondent has committed mistake, nor held any enquiry and not even issued any notice calling upon the petitioner to explain her side of the case, the impugned order has to go.

3.It is also submitted that the petitioner is a widow with three children. Therefore, it is very difficult to eke out her livelihood bearing huge responsibility on her shoulder. Therefore, the impugned order may be set aside and the petitioner is prepared to rejoin the duty without even claiming backwages from the date of removal till the date of order passed by this Court.

4.A detailed counter affidavit has been filed by respondent. The learned counsel appearing for the respondent submitted that it is not the case that the petitioner committed a mistake in the Transfer Certificate giving different date of birth. She has also produced a false date of birth certificate and this was subsequently found that the same was referred to by the Commissioner, Vellore City Municipal Corporation in his letter, vide letter Roc.No.8131/D1/16, dated 04.04.2016 and after verification of the birth certificate produced by her, informed the respondent that it is not genuine. Based on the verification report given by the Commissioner, Vellore City Municipal Corporation, the petitioner was terminated from service. But these reasons have not been mentioned anywhere in the impugned order.

5.First of all, when the petitioner was sponsored through the District Employment Exchange to the office of the respondent, she was found eligible. Thereupon, she was appointed as an Office Assistant on 22.11.2013 on the premise that she was a widow with three children. She was also permitted to continue service till the date of removal order, which was passed on 06.06.2016.

6.A perusal of the order clearly shows that no notice or a charge memo was issued and no enquiry was held. This apart, not even a single reason has been mentioned in the impugned order. Therefore, the impugned order is set aside. As the petitioner is a widow living with three children, this Court, accepting the submission made by the learned counsel appearing for the petitioner that she won't be claiming any backwages for the interregnum period, namely, from the date of removal from service till the date of order of this Court, the respondent is directed to reinstate the petitioner without backwages within a period of four weeks' from the date of receipt of a copy of this order and as stated by the learned counsel for the petitioner, the petitioner's date of birth shall be treated only as 10.06.1980.

7.With the above direction, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi/abr

To

The Joint Commissioner (Administration)
Office of the Principal Secretary/
Commissioner of Commercial Tax,
Chepauk, Chennai - 600 005.

+1 cc to Mr.K.Raja, Advocate, S.R.No.2033

+1 cc to the Spl.Government Pleader(taxes), S.R.No.2207

W.P.No.23096 of 2016 and
W.M.P.Nos.19805 &
19806 of 2016

MP(CO)
SSM(14/02/2019)