

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16933 of 2018

R.Saraswathi

.. Petitioner

..vs..

1.The District Collector,
Thiruvallur District,
At Thiruvalur.

2.The Block Development Officer,
Pallipattu,
Thiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to reinstate the petitioner into her service as Noon Meal Organizer in any of the Government School within the jurisdiction of Pallipattu Taluk, Thiruvallur District by considering her representation dated 04.12.2017 and pay all back wages since 13.09.20014.

For Petitioner :Mr.A.Rajesh Kanna

For Respondents :Mr.R.S.Selvam,
Government Advocate for R1

Mr.P.S.Sivashanmuga sundaram
for R2

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to reinstate the petitioner into service as Noon Meal Organizer in any of the Government School within the jurisdiction of Pallipattu Taluk, Thiruvallur District by considering her representation dated 04.12.2017 and pay all back wages since 13.09.20014.

2.Admittedly, the writ petitioner was appointed as Noon Meal Organizer on 13.03.1995. The writ petitioner entered into the maternity leave on 14.09.2004 and the leave was sanctioned till

15.12.2004. Thereafter, the writ petitioner remained unauthorizedly absent and she did not attend duty.

3.The learned counsel for the petitioner states that due to various personal reasons, the writ petitioner could not able to join duty. However, the counter affidavit filed by the Block Development Officer states that the writ petitioner had undergone Diploma in Teacher Education and therefore, she was not in a position to rejoin duty in respect of the notice issued to join duty.

4.The learned counsel for the writ petitioner further states that, as of now, no order of termination or removal from service has been issued. Thus, the respondents are bound to reinstate the petitioner into service, as the petitioner was not terminated from service. However, the petitioner abandoned her duty and therefore, at this point of time her claim cannot be considered at all.

5.This Court is of the considered opinion that the petitioner was appointed as Noon Meal Organizer by the Competent Authorities and she served for about 9 years in the Department. Thereafter, she entered into maternity leave and subsequently remained absent unauthorizedly. However, it is duty mandatory on the part of the disciplinary authority to initiate appropriate disciplinary proceedings against the employees who all are not attending duty unauthorizedly and pass appropriate orders. Even in case of unauthorized absence for a long tenure, disciplinary proceedings ought to have been initiated against the employees and after conducting an enquiry final orders are to be passed with reference to the service rules in force.

6. It is admitted by the Block Development Officer, Pallipattu that no termination order has issued so far. However, non passing of the termination would not entitle the writ petitioner to get an order for reinstatement. In view of the fact that the writ petitioner remained unauthorizedly absent for more than 14 years, this Court is not inclined to consider the relief for reinstatement of the writ petitioner in service.

7. The fact to be noted in this case is the Block Development Officer has not initiated any action, which is construed as a negligence and dereliction of duty on part of the Block Development Officer as well as the Competent Authorities. It is duty mandatory on the part of the Competent Authorities to ensure that prompt actions were initiated in respect of the misconduct of unauthorized absence by the employees. In this regard, the first respondent, the District Collector, Thiruvallur District is directed to conduct an enquiry in respect of the lapses, negligence and dereliction of duty by the

competent authorities in the present case and initiate appropriate disciplinary proceedings against the Block Development Officer or any other officer who all are responsible for not initiating actions in respect of the allegations of unauthorized absence and proceed against them by following the procedures contemplated under the Discipline and Appeal Rules. As far as the case of the writ petitioner is considered and also appropriate actions to be initiated and suitable orders are to be passed.

8. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Thiruvallur District,
At Thiruvalur.

+1 cc to Mr.A.Rajesh Kannan, Advocate Sr.No.20485

+1 cc to The Government Pleader, Sr.No.20911

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GJII(CO)
CSL/29.03.2019

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