

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.27987 of 2017

K.Amutha

... Petitioner

Vs.

The Commissioner,
O/o. The City Municipal Corporation,
Vellore, Vellore District. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 24.08.2017 praying for issuance of retirement benefit and terminal benefits in accordance with law within stipulated period.

For Petitioners : Mr.S.Parthasarathy

For Respondent : Ms.P.Shanthi

ORDER

The instant writ petition is for a Writ of Mandamus directing the respondent to consider the representation dated 24.08.2017 for issuance of the retirement benefit and terminal benefits in accordance with law.

2. The petitioner's husband was working as sanitary Inspector in the Municipal Corporation, Vellore. The petitioner state that her husband's whereabouts were not known from 2010. The petitioner state that she wrote a letter on 07.04.2014 stating that her husband's whereabouts are not known and that he has become unsound mind. The petitioner also prayed for medical expenses. The petitioner state that the letter was served on the Office of the City Municipal Corporation.

3. The petitioner also states that she received a letter on 17.04.2014, stating that her employment request would be considered only upon her husband opting voluntary retirement. The petitioner states that she came to know that her husband was found dead on 21.02.2017 and therefore, the petitioner

gave a representation claiming for pensionary benefits. Since the petitioner representation has not been considered, the present writ petition has been filed.

4. The respondent have filed a counter. In the counter, the respondent have taken a specific stand that after continuous unauthorized absent from duty, disciplinary proceedings were initiated against the petitioner's husband by giving a charge under rule 8(2) of the Tamil Nadu Municipal Servants (Discipline and Appeal) Rules vide charge memo Roc.No.9813/2009/H1 dated 02.03.2012. The charge memo was served on the petitioner and was also affixed on the door of the petitioner's residence. It is also stated that the Corporation also gave a publication in Thinathanthi daily news paper on 18.12.2014, regarding the disciplinary proceedings initiated against the husband of the petitioner. Since the petitioner's husband did not came to attend the disciplinary proceedings, a letter dated 30.12.2014 was passed removing the petitioner from service.

5. The short issue arise for consideration is as to whether the petitioner is entitled to the pensionary benefits on the demise of her husband. The facts would show that the disciplinary proceedings were initiated against the petitioner's husband way back on 02.03.2012 and the petitioner's husband has been removed from service. What is surprising in this case is that the petitioner's husband is missing from April 2010, but there is nothing in record. No action was taken by the petitioner to search her husband indicates that only after disciplinary proceedings were initiated, a letter dated 07.04.2014 was written by the petitioner. The petitioner's husband has been terminated by a valid proceeding under the Service Rules. Since the termination of the petitioner's husband is valid and in accordance with the Rules under 17(b), the petitioner is not entitled to pensionary benefits.

6. Writ petition is dismissed. No Costs.

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Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

Pkn.

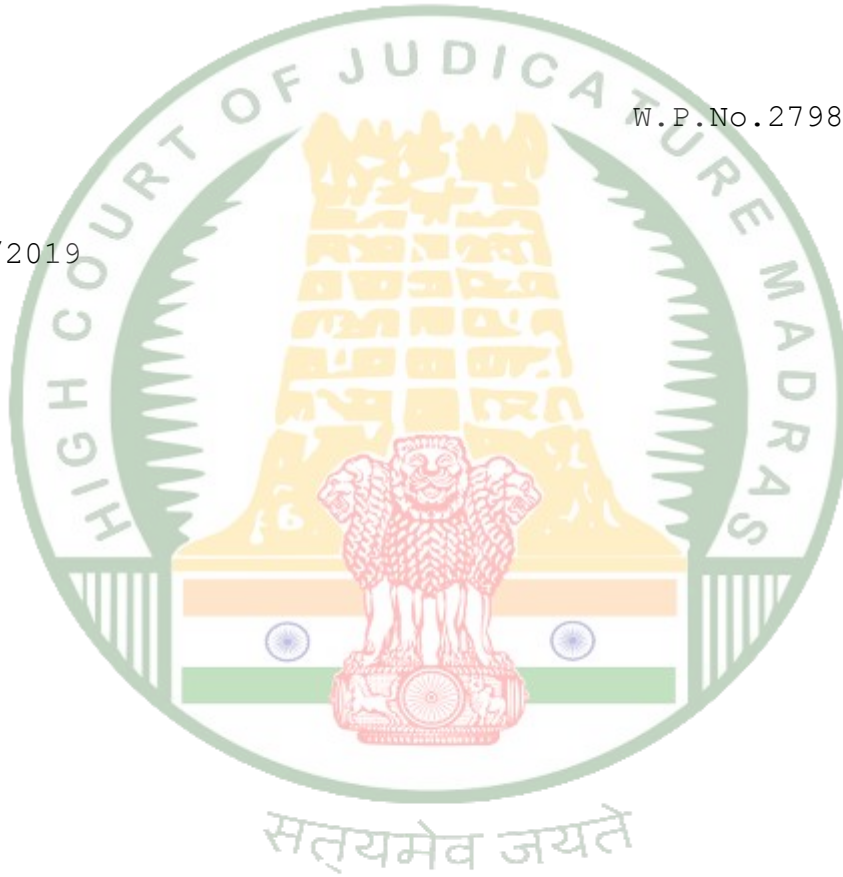
To

The Commissioner,
O/o. The City Municipal Corporation,
Vellore, Vellore District.

+2cc to Mr.S.Parthasarathy, Advocate Sr.90031
+1cc to Mrs.P.Shanthi, Advocate Sr.89775

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srg 09/12/2019



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