

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2019

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALAWrit Petition No.33649 of 2018
& WMP No.39057 of 2018

P.Josebin Mari

... Petitioner

Vs.

1. The District Collector, Collectorate, Villupuram District
 2. The District Project Officer, Integrated Child Development Project, Office of ICDP, Oguvathy, Villupuram District
 3. The Project Officer, Office of the Child Development Project Officer, Ulundhurpet Union, Villupuram District
- ... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records from the proceedings of the second respondent in Se.Mu.Na.Ka.No.1958/A1/2017, dated 14.03.2018, quash the same and consequently to direct the second respondent to permit the petitioner to work as Anganwadi Helper at Eraiyur (South), Ulundurpet, Villupuram District, under Integrated Child Development Programme.

For Petitioner : Mr. P.Saravanan
For Respondents : Mr. A.N.Thambidurai, Spl.G.P.,

ORDER

By the impugned order dated 14.03.2018, the petitioner, who was an Anganwadi Helper, was dismissed from service. The petitioner was originally appointed as Anganwadi Helper, on

14.12.2017. The application form to be submitted contained 17 clauses in which none of them is regarding details of pending criminal cases / criminal antecedents.

2. After the appointment, a show cause notice was issued to the petitioner stating that a criminal case is pending against her and in respect of the same, she has to submit her explanation. The petitioner submitted her explanation explaining the circumstances under which the criminal case came to be registered against her in respect of death of her husband and that the case is pending trial before the District Court, Villupuram.

2.1. Thereafter, the petitioner was dismissed from service on the ground that the petitioner suppressed the pending criminal case against her in Crime No.137 of 2017 under Section 302 IPC. This order is under challenge in this writ petition.

3. The learned counsel appearing for the petitioner would submit that the order passed, without conducting an enquiry, is illegal.

3.1. It is specifically contended that when there was no opportunity given to the petitioner to disclose about any pending

criminal case details, the dismissal on the ground that the petitioner is guilty of suppression of the pending criminal case cannot be sustained.

4. This Court by the order dated 18.12.2018 directed the learned Special Government Pleader, to find out whether any column is provided for in the application, towards disclosing the information regarding any pending criminal case.

4.1. The learned counsel for the petitioner has filed the copy of the application form, from which it is evident that no clause has been provided for the purpose of disclosing the pending criminal case. Therefore, there was no opportunity for the petitioner to furnish the details regarding the pending criminal case.

5. Under the stated circumstances, the dismissal, on the ground that the petitioner had suppressed the pending criminal case cannot be sustained and therefore, the impugned order is set-aside.

6. Pending criminal case cannot be a ground to dismiss the petitioner from service as it is the fundamental principle of criminal jurisprudence that the accused is presumed to be innocent unless

proven guilty. In the criminal trial, it is open to the petitioner to take any defence including self-defence. Therefore, unless the criminal case is concluded and unless it is proved that the accused is guilty, it is not open to the respondents to dismiss the petitioner.

7. In the result, the impugned order passed by the second respondent in Se.Mu.Na.Ka.No.1958/A1/2017, dated 14.03.2018, is quashed. The second respondent is directed to permit the petitioner to work as Anganwadi Helper at Eraiyur (South), Ulundurpet, Villupuram District, under Integrated Child Development Programme. The writ petition stands allowed. No costs. Consequently, the connected WMP is closed.

09.01.2019

Index : Yes / No

Web : Yes / No

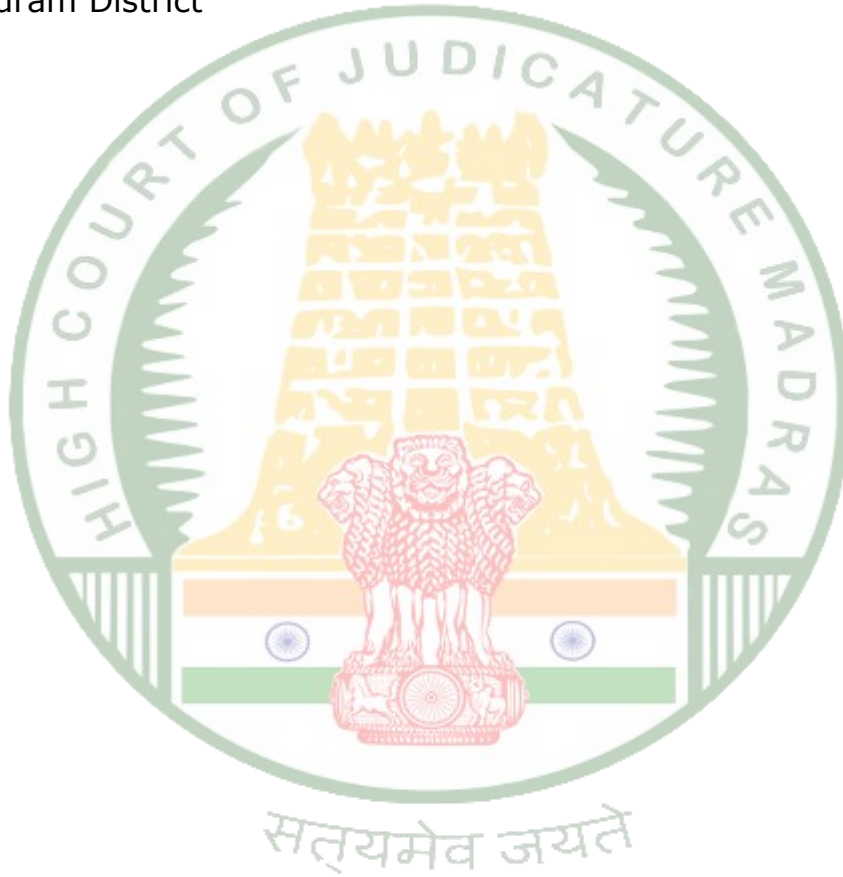
Speaking order / Non speaking order

srk

WEB COPY

To

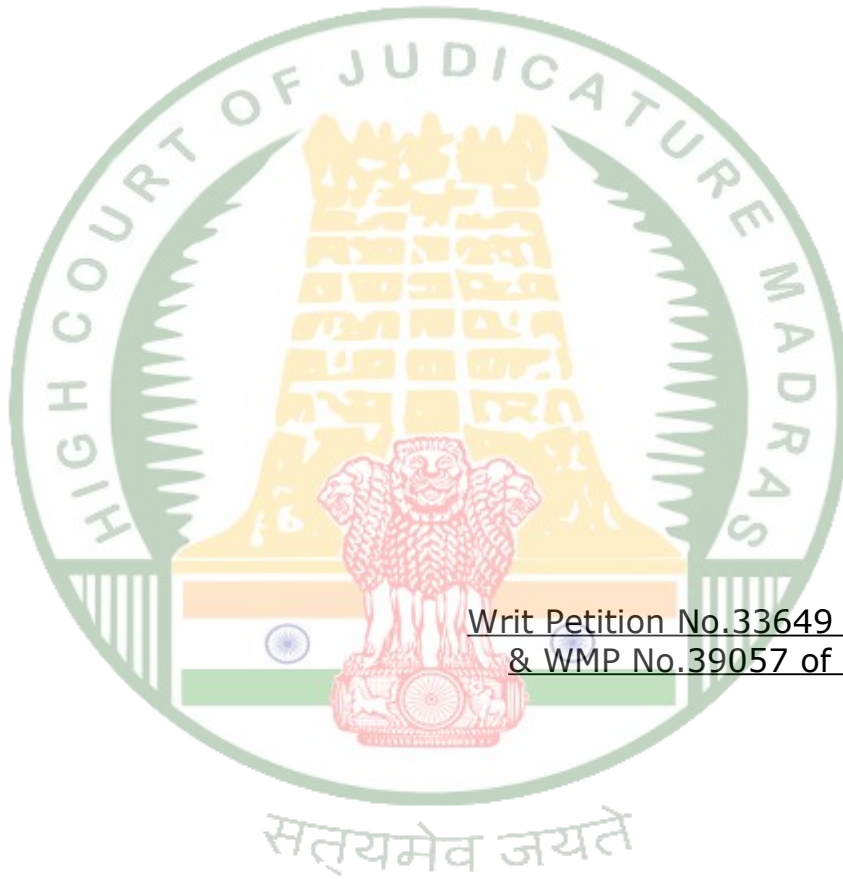
1. The District Collector, Collectorate, Villupuram District
2. The District Project Officer, Integrated Child Development Project, Office of ICDP, Oguvathy, Villupuram District
3. The Project Officer, Office of the Child Development Project Officer, Ulundhurpet Union, Villupuram District



WEB COPY

Dr. S.VIMALA, J.,

srk



Writ Petition No.33649 of 2018
& WMP No.39057 of 2018

WEB COPY

09.01.2019