



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A.(MD) No.364 of 2019
and
C.M.P.(MD) No.3080 of 2019

A.Azhagammal

... Appellant

-vs-

1.The State of Tamil Nadu
Represented by its
Principal Secretary to Government
Rural Development and
Panchayat Raj Department
Fort St.George
Chennai-600 009

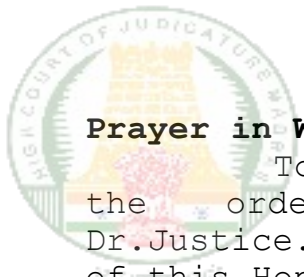
2.The District Collector
Collectorate
Virudhunagar District
Virudhunagar

3.The Block Development Officer
(Village Panchayats)
Kariyapatti Panchayat Union
Kariyapatti Post
Virudhunagar District

4.The President
Melakallankulam Village Panchayat
Kariyapatti Panchayat Union
Kariyapatti Post
Virudhunagar District

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent to set aside
<https://hservices.ecourts.gov.in/hceservices/> the order dated 16.11.2018 made in W.P.(MD) No.853 of 2015.



Prayer in WA(MD) . 364/ 2019 :

To Prefer this Memorandum of Grounds of Writ Appeal against the order dated 16.11.2018 passed by His Lordship Dr.Justice.G.Jayachandran made in WP(MD) No.853 of 2015 on the file of this Honourable Court.

Prayer in WP(MD) . 853/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus to permit the petitioner to discharge her official duties as Village Panchayat Assistant either in the 4th respondent Panchayat or in some other village Panchayat in Kariyapatti Panchayat Union, Virudhunagar District with all attendant and monetary benefits.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by B.PUGALENDHI, J.]

This Writ Appeal has been filed as against the order dated 16.11.2018, passed in W.P.(MD) No.853 of 2015, by the learned Single Judge of this Court.

2. The appellant / writ petitioner filed a writ petition seeking for a direction to the respondents permitting her to discharge her official duties as Village Panchayat Assistant either in the fourth respondent Panchayat or in some other Village Panchayat in Kariyapatti Panchayat Union, Virudhunagar District.

3. According to the appellant, she was appointed as a Part-Time Clerk in the Village Panchayat of Virudhunagar District and served in various Village Panchayats. By virtue of G.O.(Ms) No.962, Rural Development (E7) Department, dated 28.11.1990, her service as Part-Time Panchayat Clerk was recognized and she was made as a Full Time Panchayat Assistant with effect from 01.01.1991 and since then, she was working in Kariyapatti Panchayat with the fixed pay of Rs.400/-. While so, she was terminated from service by the fourth respondent herein without proper notice. Hence, she approached this Court by filing a writ petition in W.P.No.987 of 1991 to quash the termination order. The said writ petition was allowed and the termination order was quashed by this Court vide order dated 17.12.1991. Therefore, she was reinstated into service by the third respondent vide order dated 11.06.1992. But, again she was terminated from service by the fourth respondent herein and the same was confirmed by the second respondent herein. Aggrieved over the same, she has approached this Court by filing W.P.(MD) No.853 of 2015.



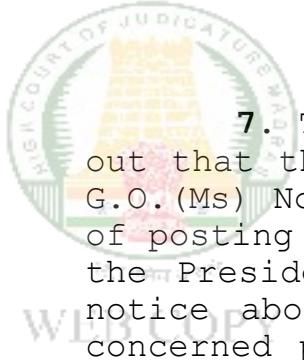
4. The Writ Court, considering the facts and circumstances of the case, by order dated 16.11.2018, dismissed the writ petition, on the following grounds:

5. From the records, it is very clear that the petitioner herein has been terminated from service in the year 2001 by the President of Melakallankulam Village Panchayat. Thereafter, she has given a representation to the second respondent and also approached this Court to consider and pass orders on her representation. The second respondent herein has intimated the writ petitioner about G.O (Ms) No.175 Rural Development Department dated 05.12.2006, wherein the power of posting and appointment of Village Assistant being vested with the President of the concerned village President. Despite putting into notice about the legal provision, she has neither approached the concerned person nor approached this Court immediately. The present writ petition has been filed in the year 2015.

6. The writ petitioner was terminated from service in the year 2001 and she was made known that it is the Village Panchayat President who is the competent authority to consider the request. She has not made any request to the Village Panchayat President. After delay of several years in order to revive her lis, she has filed the present writ petition."

5. Challenging the dismissal of the writ petition, the present writ appeal has been filed.

6. Even according to the appellant, she was appointed as a Panchayat Assistant in the year 1991. By that time, there was no service condition for the said post. Service conditions for the post of Panchayat Assistant were enacted by the Government of Tamil Nadu in the year 2006 vide G.O (Ms) No.175, Rural Development Department, dated 05.12.2006. By virtue of the said Government Order, the Panchayat President is the appointing authority for the post of Panchayat Assistant. Subsequently, it is represented that, the said Government Order has also been modified and the said power has been assigned to P.A. to the District Collector. The appellant, even after the enactment of service conditions in the year 2006, had not approached the authority concerned in time, but, only in the year 2012, by way of a representation, approached the Assistant Director of Panchayats, Virudhunagar, who by order dated 13.07.2012, rejected her request of reinstatement into service. However, ~~she~~ ^{she} challenging the said order, the appellant filed the writ petition in the year 2015.



7. The learned Single Judge of this Court has rightly pointed out that though the second respondent intimated the appellant about G.O.(Ms) No.175, dated 05.12.2006, whereby and whereunder, the power of posting and appointment of Village Assistant has been vested with the President of the concerned Village Panchayat and putting into notice about the legal provision, she has neither approached the concerned person nor approached this Court immediately, but, filed the writ petition only in the year 2015.

8. When such being the position, we do not find any infirmity or illegality in the order passed by the learned Single Judge warranting interference of this Court.

9. In the result, this Writ Appeal fails and it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To:

- 1.The Principal Secretary to Government,
Rural Development and
Panchayat Raj Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector,
Collectorate,
Virudhunagar District, Virudhunagar.
- 3.The Block Development Officer,
(Village Panchayats),
Kariyapatti Panchayat Union,
Kariyapatti Post, Virudhunagar District.

+1cc to Mr.M.Saravanakumar, Advocate, SR.No.60326

W.A. (MD) No.364 of 2019

and

C.M.P. (MD) No.3080 of 2019

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