

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 12.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)No.5874 of 2015**

S.Alangara Mary @ Betsia

... Petitioner

Vs.

1.The Director of Survey and Settlement,
Chepauk, Chennai - 5.2.The Additional Director,
Directorate of Survey and Land Records,
Chepauk, Chennai - 5.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents to disburse the salary and attendant benefits without break in service of the petitioner from 14.08.2012 to 02.07.2014 forthwith.

For Petitioner : Mr.S.Vellaichamy

For Respondents : Mr.C.M.Mari Chelliah Prabhu,
Additional Government Pleader.**ORDER**

Seeking disbursement of salary and attendant benefits without break in service for the period from 14.08.2012 to 02.07.2014, the petitioner has filed the present Writ Petition.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The case of the petitioner is that she was transferred from Sivagangai to Nagapattinam District in the middle of the Academic Year. Challenging the same, she has filed a Writ Petition in W.P(MD) No.12590 of 2010 and obtained an order of interim stay. Despite the same, she was not permitted to work in the said place. On the other hand, she was allowed to join as Superintendent at Pudukottai on 03.07.2014, at her request. Hence, treating the period from 14.08.2012 to 02.07.2014 as the period in service, the petitioner claimed benefits and as the same has not been considered, the petitioner is before this Court.



4.The first respondent filed counter-affidavit, wherein at paragraph No.5 reads as follows:-

"5.With regard to para 5 and 6 of the affidavit it is submitted that the order of transfer, dated 13.08.2012 was stayed by this Court on 26.09.2012. But even before granting interim stay order by this Court, the petitioner was relieved on 13.08.2012 itself and in her place one Thiru.S.Baskaran had taken charge on 14.08.2012. Due to the joining of Thiru.S.Baskaran in the place of the petitioner, there was no vacancy in the cadre of Superintendent in Sivagangai District and hence Miscellaneous Petition in M.P(MD)No.2 of 2012 in W.P(MD)No.12590 of 2012 for vacating the interim stay orders, was filed on 26.11.2012 before this Court and it is pending. It is also submitted that as aforesaid, the Superintendent post in Nagapattinam District was exclusively reserved for the petitioner. Under no point of time, the petitioner was denied to join as Superintendent. Subsequently on the request of the petitioner, transfer orders were issued transferring her to Pudukkottai District. Hence, it is submitted that as the petitioner was already issued with transfer order posting her as Superintendent in Nagapattinam District, the petitioner cannot claim the period from 14.08.2012 to 02.07.2014 as compulsory wait period."

5.Such averment made in the counter-affidavit is totally denied by the learned counsel appearing for the petitioner, who in turn, sought for consideration of the petitioner's representation, dated 09.06.2014.

6.In such view of the matter, the respondents are directed to consider the representation of the petitioner, dated 09.06.2014 and also considering the above facts and circumstances, pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Director of Survey and Settlement,
Chepauk, Chennai - 5.

2.The Additional Director,
Directorate of Survey and Land Records,
Chepauk, Chennai - 5.

+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.53556

+1 CC to M/s.M.V.VENKATASESHAN, Advocate in SR-54169

W.P (MD) No.5874 of 2015
12.03.2019

ps

PK/23.04.2019 : 3P/5C