



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

WP(MD).No.5189 of 2016 and

WMP(MD).Nos.4643 and 4644 of 2016

P. Parvatham

: Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Social Welfare and Nutritious Meal Programme
(SWI) Department,
Chennai.

2.The Principal / Special Commissioner,
Integrated Child Development Programme,
Tharamani, Chennai - 113.

: Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed by the first respondent in G.O.(Pa).No.8, Social Welfare and Noon Meal (SWI) Department dated 18.01.2016, quash the same in so far as it relates to imposing punishment of stoppage of yearly increment for a period of one year without cumulative effect alone and consequently directing the respondents to regularize the suspension period of the petitioner from 07.08.2012 to 27.02.2015 with continuity of service and disburse the arrears of monthly salary from 07.08.2012 to 27.02.2015.

For Petitioner	: Mr.S. Bharathy Kannan
For Respondents	: Aaiyram K. Selvakumar Addl. Govt. Pleader

ORDER

This Writ Petition has been filed seeking to call for the records in connection with the impugned order passed by the first respondent in G.O.(Pa).No.8, Social Welfare and Noon Meal (SWI) Department, dated 18.01.2016 and quash the same and other consequential reliefs..

2. According to the petitioner, the impugned Government Order by imposing punishment of stoppage of increment for a period of one year without cumulative effect was challenged before this Court.

3. The second respondent filed counter affidavit, wherein at paragraph No.12 it has been held as follows:

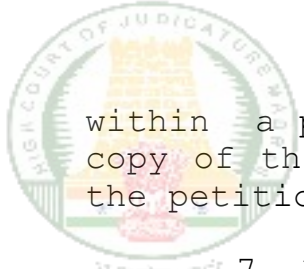


"12. It is respectfully submitted that the averment of the petitioner herein in Grounds paragraph (f) of the affidavit is denied as flimsy, motivated and devoid of truth. This Hon'ble Court while passing interim order in MP(MD).No.1 of 2015 in WP(MD).No.9110 of 2015 on hearing the averment of the Government Pleader that in view of the non co-operation and also causing inconvenience to the enquiry officer, the officer has disinclined to proceed with the enquiry proceedings, granted 3 months time for completion of enquiry, from the date of receipt of the copy of the order and the petitioner was directed to co-operate with the enquiry and further directing the Enquiry officer to follow proper procedures by making the main witnesses available for cross examination. The petitioner herein has not cited Tmt.T. Vasanthi as her main witness in her proforma and hence the question of calling her enquiry does not arise as well as the fact that the said Tmt.T. Vasanthi as a officer and on the direction of the respondents conducted preliminary enquiry only and hence she could not be permitted to be targeted by the delinquent to gain leverage and hence, she was not enquiry as official witness since it was considered not necessary since she had not sent any complaint against the petitioner herein, other than conducting enquiry as a District Level Officer on the allegation petitions submitted by the Anganwadi Workers. It is respectfully submitted that in the disciplinary proceedings, the test applied is only preponderance of probability and in as much as a strong case was clearly made out, the petitioner herein was under suspension for nearly three years, the Government took a lenient view to order stopping of increment for one year only and since the petitioner herein has already sought for review of the order, she is ill equipped to file the present Writ Petition which is liable for dismissal."

4. The petitioner has already sought for review of the said impugned order and the same is pending before the first respondent. In support of his contention, the petitioner counsel has also filed a copy of the review application in the typed set of papers.

5. In such circumstances, there is no dispute with regard to the said factum that the review application is pending before the first respondent.

6. Having regard to the fact that the review application is pending, this Court, without expressing any opinion on the merits of the petitioner's case, directs the first respondent to consider the review application filed by the petitioner dated 27.02.2016, on merits and in accordance with law and pass appropriate orders,



within a period of twelve (12) weeks from the date of receipt of a copy of this order, after affording due opportunity of hearing to the petitioner.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Social Welfare and Nutritious Meal Programme
(SWI) Department,
Chennai.

2.The Principal / Special Commissioner,
Integrated Child Development Programme,
Tharamani, Chennai - 113.

+1 CC to SPL GP (SR-69423[F] dated 18/06/2019)

+1 CC to Mr.S.BHARATHY KANNAN, Advocate (SR-69859[F] dated 19/06/2019)

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17.06.2019

trp

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