



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A.(MD)No.1613 of 2016

against

W.P.(MD).No.549 of 2010

Shanmugadevi

... Appellant/Petitioner

Vs.

1. The District Collector,
Sivagangai District, Sivagangai.

2.The District Project Officer,
Sivagangai District, Sivagangai.

3. The Children Development Project Officer,
Ilayankudi, Sivagangai.

4. Kavitha

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD) No.549 of 2010 dated 16.02.2012.

Prayer in WP(MD). 549/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIIFIED MANDAMUS, calling for the records pertaining to the cancellation of the petitioners appointment order passed by the 2nd respondent vide Se.Mu.Na.Ka.No.5555/21/2008, dated 31-12-2009 and quash the same and consequently directing the 1st and 2nd respondents to reinstate the petitioner as a Anganwadi worker of Arasaradi Mini Anganwadi Centre, Ilayankudi Taluk, Sivagangai District under the 3rd respondent Office.

For Appellant : Mr.G.Thalaimutharasu

For Respondents : Mr.Aayiram K.Selvakumar

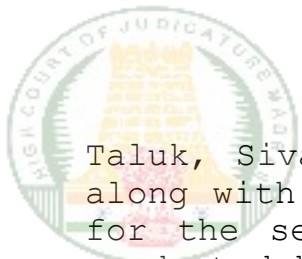
Additional Government Pleader
for R1 to R3

Mrs.J.Balamahalakshmi for R4

J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The appellant is the writ petitioner. The petitioner would state that she is the daughter of one Mr.P.Pandian, who is a resident of Arasaradi village, Virayathakandan Post, Ilayankudi



Taluk, Sivagangai District and she is residing in the said address along with her family members and she participated in the interview for the selection to the post of Anganwadi Worker on 25.09.2009, conducted by the third respondent and vide proceedings of the first respondent dated 21.11.2019, she was appointed as an Anganwadi Worker of Arasaradi Mini Anganwadi Centre and she also took charge immediately and performed her duty properly, diligently and sincerely.

2. The petitioner would further claim that after her marriage, she continues to reside in Arasaradi village along with her family members and however, to her shock and surprise, she was issued with the impugned order dated 31.12.2009, by the second respondent stating among the reasons that on conducting an enquiry, he became aware of the fact that she is not residing in the address, in which she claims to be residing along with her family members and since she has suppressed the material facts, she is liable to be terminated and accordingly, terminated her service and challenging the legality of the same, she came forward to file the Writ Petition and it was entertained.

3. The third respondent has filed the counter affidavit, wherein, it was averred among other things that the appellant/writ petitioner got married to one Mr.A.Dinakaran, about ten years ago and he is eking-out his livelihood with her as a tourist driver and lives at Ponnaiyapuram, Paramakudi (TK), Ramanathapuram District, along with his family members and so also the appellant/writ petitioner along with her husband and daughters namely, Hari Shalini and Nidhi Shalini and that apart, a family card was also issued to him along with her name and the names of the family members.

4. It is further averred that the petitioner did not remove her name from her father's family ration card in the year 2005 - 2009 and taking advantage of the same, she applied for the Anganwadi Worker post, Arasaradi village, Sivagangai District and when this fact came to the knowledge of the second respondent, she has been rightly terminated from the service and since, appellant/writ petitioner is also guilty of suppression of material facts, this Court may not come to the aid of the appellant and prayer for the dismissal of the Writ Appeal.

5. The learned Single Judge has taken the writ petition in W.P.(MD).No.549 of 2010 filed by the appellant/writ petitioner along with the writ petition filed by one Kavitha in W.P.(MD).No.516 of 2010, in which she was arrayed as the third respondent.

6. The learned Single Judge having taken note of the stand taken by the official respondents in the counter affidavit and found that the points urged on her behalf lack merits and found she was guilty of suppression of material facts and accordingly, dismissed



the Writ Petition and disposed of W.P.(MD).No.516 of 2010, filed by Kavitha with certain observations. The writ petitioner aggrieved by the dismissal of the writ petition in W.P.(MD).No.549 of 2010, came forward to file this Writ Appeal.

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7. The learned counsel appearing for the petitioner would submit that the fact remains that the appellant/writ petitioner had also possessed family card, which disclosed that she is a resident of Arasaradi village and the mere factum of marriage, would not constitute any disqualification and further pointed out that after assuming charge as an Anganwadi Worker, she performed her duty honestly and sincerely and since, it is a very lower level post, the official respondents may also exhibit some sympathy and hence, prayed for appropriate direction to set aside the order of termination with the consequent direction to re-induct her as Anganwadi Worker.

8. Per contra, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, appearing for the official respondents would submit that in the light of the stand taken by the third respondent in the counter affidavit, the appellant/writ petitioner has no *locus standi* and prays for dismissal of the Writ Petition.

9. This Court has carefully considered the rival submissions and perused the materials placed before it.

10. The proceedings of the first respondent dated 21.11.2008, in and by which, the appellant/writ petitioner got an appointment as an Anganwadi Worker would also disclose that the subsequent verification of her educational qualification and other materials reveal the suppression of material fact and the appointment was cancelled for the reason that the said accommodation is to a temporary post.

11. A perusal of the counter affidavit of the third respondent would disclose that the petitioner is a married lady and after her marriage, shifted her residence to her matrimonial abode at Ponnaiyapuram, Pramakudi (TK), Ramanathapuram District, where her husband got a family card in which her name as well as the name of her children also finds place and the said fact has been totally burked by the appellant/writ petitioner. It is also brought to the knowledge of this Court that a person is not supposed to possess two family ration cards and despite the fact that the appellant/writ petitioner had shifted her abode to her matrimonial house, still managed to retain her name in the family card possessed by her father, who lives in Arasaradi village and taking into consideration of the said fact, the second respondent has rightly passed the order of termination.



12. The learned counsel appearing for the appellant/writ petitioner would submit that the order of appointment was passed by the first respondent, whereas the order of termination came to be passed by the second respondent.

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13. It is to be noted at this juncture that the second respondent is also a superior official of the appellant/writ petitioner, who has been appointed as an Anganwadi Worker and it is also a well settled position of law, the act of fraud would vitiate even the most solemn act. As already pointed out that the contents of the counter affidavit of the second respondent would in fact lead to the only conclusion that the petitioner has committed a willful act of suppression of material fact and taking into consideration of the fact that her appointment is made purely as a temporary post, she came to be terminated correctly in terms of the impugned order and this Court on an independent application of mind is of the considered view that there is no error apparent or any infirmity in the reasons assigned in the order dismissing the writ petition and finds no merit in the Writ Appeal.

14. In the result, the Writ Appeal is dismissed and confirming the order dated 16.02.2012 in W.P.(MD) No.549 of 2010 and the order of the second respondent dated 31.12.2009. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Sivagangai District, Sivagangai.
2. The District Project Officer,
Sivagangai District, Sivagangai.
3. The Children Development Project Officer,
Ilayankudi, Sivagangai.

+1 CC to M/s.Spl.GP (SR-13519[F] dated 03/08/2020)

W.A. (MD) No.1613 of 2016
31.07.2020

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