

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2957 of 2021 and  
WMP No.3320 of 2021

M.Ashwathy mani

... Petitioner

Vs

1. The Tamil Nadu Civil Supplies Corporation,  
Represented by its Managing Director,  
No.144, Thambusamy Street,  
Kilapuk, Chennai 600 010.

2. The Chairman and Managing Director,  
Tamil Nadu Civil Supplies Corporation,  
No.144, Thambusamy Street,  
Kilapuk, Chennai 600 010.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records in connection with the impugned proceedings of the 2<sup>nd</sup> respondent bearing No.AD1/16297/2019, dated 27.02.2020 and quash the same and direct the 1<sup>st</sup> respondent Corporation to include the name of the petitioner in the panel for promotion to the post of Assistant Manager for the year 2018 with all consequential benefits.

For Petitioner : Mr.V.Prakash, Senior Counsel  
for Mr.K.Krishnamoorthy

For Respondents: Mr.L.P.Shanmuga Sundaram  
Additional Government Pleader

ORDER

This writ petition has been filed, seeking to quash the impugned proceedings bearing No.AD1/16297/2019, dated 27.02.2020 passed by the 2<sup>nd</sup> respondent and for a consequential direction to the 1<sup>st</sup> respondent Corporation to include the name of the petitioner in the panel for promotion to the post of Assistant Manager for the year 2018 with all consequential benefits.

2. The case of the petitioner is that when the petitioner was working as a Superintendent in the respondent Corporation in the year 2017, her husband suffered with renal disease and died in the year 2018. Her husband was given Hemodialysis on alternative days from the year 2017 till his death i.e., on 27.08.2018. Whenever dialysis was done, the petitioner took permission or leave in advance and if the same was not required, she returned to duty. While so, some of her attendance was disbelieved and the same were questioned, thereby disciplinary action was initiated by issuing Charge Memo for major penalty in which she gave explanation denying the charges leveled against her. Not satisfied with the explanation, enquiry was conducted and she was imposed with punishment of stoppage of increment for a period of one year without cumulative effect. In effect, her name for promotion was deferred in 4 panels to the post of Assistant Manager. Aggrieved by the findings of the Enquiry officer, the petitioner preferred an appeal before the 2<sup>nd</sup> respondent and the same resulted in reduction of punishment as stoppage of increment for 3 months without cumulative effect. Challenging the order, the petitioner has filed the present Writ petition.

3. On a perusal of the records, it shows that there is no procedure followed in the departmental enquiry conducted by the Enquiry Officer, which resulted in the imposition of punishment. However, taking note of the fact that the husband of the petitioner was suffering from Kidney problem, which ultimately resulted in his demise, and that the petitioner having intimated the fact of her husband getting treatment of dialysis had attended office late, this Court is of the view that the punishment requires to be interfered with. As stated by the petitioner, two possible scenarios may be there, namely on one hand, her husband had taken treatment of dialysis for which she would have taken leave by intimating the respondents and on the other scenario, on completion of dialysis, she would have gone to office and marked the attendance in which her attendance would have already been marked as late permission. Such being the undisputed position, imposition of penalty would have cascading effect in her further promotional prospects and the punishment should not have been imposed as it may have adverse effect in future.

4. It is also stated by the respondent that if the punishment is interfered with, it would be a precedent for everyone to correct their attendance. I find much force in the contention of the respondents. For that purpose, this Court is not inclined to let flee the petitioner free from charges and the petitioner should undergo some punishment for her delinquency. It is represented by the respondents that in lieu of letting the petitioner go without punishment, the monetary

amount computed based on punishment be directed to be given to the Employment Welfare Fund maintained by the respondent Department. The petitioner is also willing to pay the amount within a period of 30 days from today.

5. In view of the submission made by both sides, the order of punishment is modified by protecting the interest of the either party and this Court directs the petitioner to pay the monetary value of Rs.4,563/- in lieu of punishment, to the Employee Welfare Fund of the respondent Corporation within a period of one month from today, failing which the amount could be adjusted from the next month salary payable to the petitioner. This Court places on record its deep appreciation for the Co-operation given by Mrs.V.Manonmani, M(A) II, Tamil Nadu Civil Supplies Corporation for the speedy disposal of this case.

6. Though it was stated by the respondents that there were some corrections in the records on the dates where late permission was not granted, since the punishment is interfered with by this Court, the respondents are directed to permit the petitioner to continue her work. Of course, it is true that the above conduct is construed as misconduct, but at the same time, it does not require a place in the record as punishment since it affects the future service benefits including her promotion. However, this observation cannot be taken as a precedent.

7. With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To:

1. The Tamil Nadu Civil Supplies Corporation,  
Represented by its Managing Director,  
No.144, Thambusamy Street,  
Kilapuk, Chennai 600 010.

WEB COPY

2. The Chairman and Managing Director,  
Tamil Nadu Civil Supplies Corporation,  
No.144, Thambusamy Street,  
Kilapuk, chennai 600 010.

+1 cc to The Government Pleader Sr.No. 13688

W.P.No.2957 of 2021 and  
WMP No.3320 of 2021

PCH (CO)  
RMP (09/04/2021)



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