



IN THE HIGH COURT OF JUD9ICATURE AT MADRAS

DATED: 10.12.2021

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO.18018 OF 2021

Mrs.Maria Loucia

... Petitioner

Vs

1. District Educational Officer,
Manjakuppam, Cuddalore - 607 002.
2. The Correspondent,
Good Shepard Nursery and Primary School,
Thiruppathiripuliyur,
Cuddalore - 607 002.

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the 1st respondent to take action against the 2nd respondent school and reinstate the petitioner in service with backwages, allowances and all other benefits without any deduction from the month of May, 2020 with continuity of service.

For Petitioner : Mr.P.Thangaraj

For Respondents: Mr.L.S.M.Hasan Fazal

Additional Government Pleader - R1

Mr.N.Suresh,

Standing Counsel - R2

O R D E R

According to the petitioner, she was employed as a Teacher in the second respondent school since 2013. She was married on 06.06.2019 and a son was born on 23.01.2021. The petitioner appeared to have applied for maternity leave for three months during her pregnancy. However, there was no specific sanction by the school authority of the maternity leave availed by the petitioner.



2. After giving birth to her child, the petitioner went back to her duty in February, 2021 and while reporting for duty, she had also submitted medical certificates and hospital records in support of her leave application. The petitioner also appeared to have given a letter dated 28.04.2021 seeking permission to rejoin duty after recovering from the post natal care. According to the petitioner, she was informed that the school was closed due to COVID - 19 situation, but however, the school was reopened in June, 2021 and online classes also started. However, the school has not assigned any work to the petitioner. The petitioner was therefore constrained to send a legal notice to the school on 23.06.2021, for which a reply notice was sent on behalf of the school calling upon the petitioner to show cause within 30 days as to why disciplinary action should not be taken against her for violation of rules and regulations.

3. While the reply notice and the action to be taken was pending, the petitioner has approached this Court with the present Writ Petition with the prayer for issuance of writ of mandamus directing the 1st respondent to direct the 2nd respondent to reinstate the petitioner in service with all consequential benefits.

4. When the Writ Petition is taken up for hearing, on behalf of the second respondent Mr.N.Suresh, learned counsel appeared through video conference, but was unable to provide any assistance to the Court as to why the petitioner has not been permitted to rejoin duty after expiry of her maternity leave. The counsel was also unable to come up with any cogent answer as to why the Writ Petition should not be allowed on the basis of the facts and circumstances explained in the affidavit filed in support of the Writ Petition.

5. The fact of the matter is that the petitioner has given birth to her son from her wedlock on 23.01.2021, after taking maternity leave for both pre and post natal care. After the expiry of the leave period, she is certainly entitled to report back and join duty. According to the petitioner, the school appeared to have refused to provide work to her. This Court is unable to countenance the attitude of the second respondent in not allowing the petitioner to rejoin duty for no valid reason. The second respondent has also not chosen to file any counter affidavit nor has chosen to represent before this Court with any acceptable submission for not permitting the petitioner to rejoin duty. Whatever be the circumstances of the case, without going into the contents of the reply notice issued on behalf of the school, the petitioner herein is entitled to rejoin duty and under no circumstances disciplinary action could be taken during the time when the petitioner was on maternity leave. In fact,



there is a bar against taking any disciplinary action against employee on maternity leave under any circumstances.

6. In view of the same, the Writ Petition is allowed. The petitioner is directed to report for duty within a period of one (1) week from the date of receipt of a copy of this order. On the petitioner reporting for duty, the second respondent is directed to permit her to rejoin duty forthwith and assign her appropriate work with usual and admissible pay and allowances. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. District Educational Officer,
Manjakuppam, Cuddalore - 607 002.

+1cc to Mr.P.Thangaraj, Advocate, S.R.No.65695

+1cc to Mr.N.Suresh, Advocate, S.R.No.66038

+1cc to the Government Pleader, S.R.No.66586

W.P. No.18018 of 2021

JPL(CO)

PM/06/01/2022