



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

The Hon'ble Mr.Justice C.SARAVANAN

Writ Petition No.601 of 2017
(Through Video Conferencing)

Tmt.A.Jaya

...Petitioner

Vs.

1. The District Collector,
Perambalur District.

2. The Child Development Scheme Officer,
Alathur Taluk,
Perambalur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relevant to the order in Na.Ka.No.483/A1/2016 dated 25.11.2016 passed by the first respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to reinstate the petitioner into her service from 25.11.2016 with all back wages.

For Petitioner : Mr.A.Rajeshkanna

For Respondents : Mr.LSM Hasan Fizal
Government Advocate

O R D E R

The petitioner has challenged the impugned order dated 25.11.2016 dismissing the petitioner from service as Anganwadi Noon Meal Organizer attached to the second Respondent. The petitioner had earlier availed medical leave from 19.06.2015 to 10.08.2015 which was sanctioned by the respondent. Thereafter, the petitioner appears to have been on leave from 11.08.2015 to 18.09.2016 without permission of the respondent and therefore a show cause notice appears to have been issued to the petitioner on 27.06.2016 to which the petitioner replied on 05.07.2016 expressing her difficulties stating that her child was unwell and hospitalized due to harassment by her husband. By another letter dated 05.07.2016, the petitioner also appears to have

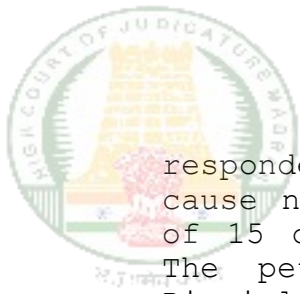


informed the respondent that she would be returning back on 28.07.2016 and that she was in the process of applying for divorce as her husband was harassing the petitioner and her child. Since the petitioner did not report duty, the respondent appears to have been issued another show cause notice dated 05.08.2016. The case of the petitioner in the writ petition is that the impugned order has been passed by the respondents is in a gross violation of principles of natural justice as the aforesaid show cause notice dated 05.08.2016 has not been served on the petitioner. It is the further case of the petitioner that she produced the fitness certificate while reporting back to duty. A duty was cast on part of the respondent to refer the petitioner to the medical board. It is submitted that instead of following the above procedure, the respondents have directly passed the impugned order dismissing the petitioner from service without giving adequate opportunity to defend herself in the above said proceedings.

2. Defending the above impugned proceedings dismissing the petitioner from service, the learned Government Advocate appearing for the respondents submits that the first respondent vide a Government letter bearing reference No.19484 dated 14.05.1999 had already clarified that any Anganwadi servant availing long leave for the period exceeds 6 months may be removed from service by the competent authority after issued show cause notice. It is submitted that in this case a show cause notice dated 05.08.2016 had indeed to be issued to the petitioner but the petitioner failed to participate the proceedings.

3. Perused the affidavit and counter affidavit and considered the arguments advanced by the learned counsel for the petitioner and the respondents.

4. What is clear is that the petitioner was issued with the show cause notice dated 27.06.2016 wherein the petitioner was called upon the show cause notice as to why her services could not be terminated on 27.06.2016, if she failed to report duty. The petitioners appear to have sent a representation dated 05.07.2016 expressing her difficulties on account of the illness of her child and on account of the harassment by her husband stating that she was at that point of time in Kerala in connection with the treatment of her child who was suffering from psychotic illness. There is no document to substantiate that the petitioner has been served in the second show cause notice dated 05 08 2016 which has culminated in the impugned order. Considering the fact that the petitioner may have had a genuine problem which required to be redressed by the respondents, this court is inclined to give an opportunity to the petitioner to participate the aforesaid proceedings. The



respondents are therefore directed to serve a copy of the show cause notice dated 05.08.2016 on the petitioner within a period of 15 days from the date of receipt of a copy of this order. The petitioner shall thereafter give reply and appropriate Disciplinary Proceedings shall be conducted by the respondent before taking a final decision. Since the issue pertains to the period 2016, the respondents shall endeavour to complete the Disciplinary Proceedings within a period of 6 months from the reply of the petitioner and after affording opportunity of hearing in accordance with law. The respondents shall ask the petitioner to report duty, pending completion of the disciplinary proceedings, as the petitioner was otherwise not involved in any other serious offence.

5. This writ petition is disposed in the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Perambalur District.
2. The Child Development Scheme Officer,
Alathur Taluk,
Perambalur District.

+1CC to Mr.A.Rajeshkanna, Advocate, Sr.No.40459
+1CC to Government Pleader, Sr.No.40760

W.P.No.601 of 2017

PCH (CO)
K.RK. (15.09.2021)