



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. NO.23022 OF 2004

AND

WP.MP.NOS.27851/2004 & 22895/2005

Karolina

...Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Govt.,
Dept. of Municipal Administration and Water Supply,
Secretariat, Chennai-600 009.
2. The Commissioner,
Arakkonam Municipality,
Arakkonam-631 001,
Vellore District.
3. The Block Development Officer,
(Panchayat Union),
Arakkonam-631 001,
Vellore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records forming part of the impugned order passed by the 3rd respondent in No.Na.Ka.a5/1724/2001 dated 8.6.2001 and quash the same and directing the respondents to reinstate the petitioner into the service with all backwages and attendant benefits w.e.f. 17.9.1998.

For Petitioner : Mr.S.Arunkumar

For Respondents : Mr.C.Selvaraj (for R1 & R2)
Government Advocate
Mr.K.Magesh (for R3)



O R D E R

The petitioner was employed as a Helper in the Noon-meal Scheme at R.C.M. School, Arakkonam, Vellore District under the control of the Arakkonam Municipal Commissioner. She was appointed on 01.07.1986. According to the petitioner, her date of retirement was 30.06.2006 as she would have completed 58 years as on that date. However, her services were terminated with effect from 31.03.1998, which was communicated to her under letter dated 16.09.1998 by the Commissioner, Arakkonam Municipality. According to the communication, she was deemed to have retired from service with effect from 31.03.1998 in view of her attaining superannuation at 55 years.

2. The dispute in this matter concerns the actual age of the petitioner and there is a lot of uncertainty as to the methodology followed by the petitioner as well as by the respondents in effecting such determination. The petitioner would contend that her actual date of birth is 17.06.1948 and as on 31.03.1998 she was only 50 years. However, according to the respondents, she was subjected to a medical test and medical opinion had been obtained from the Joint Director, Medical Services, Vellore, who has certified her age to be 55 years. On the basis of the certification obtained from the Joint Director, Medical Services, Vellore, she was asked to leave the services of the second respondent.

3. Normally, an application for the employment would contain a field/column wherein the age of the applicant would be mentioned accompanied by proof of age. In the present case, the employment is of a Noon-meal worker and the Noon Meal Scheme was itself implemented only from the early 1980s. Persons from the locality appear to have been recruited in a largely casual manner without any proper ascertainment of their age. However, the service record of the petitioner, produced for perusal of the Court does contain an endorsement to the effect that the age of the petitioner was 38 at the time of her joining service, though it has been subsequently amended to reflect the age as determined by the Joint Director, Medical Services in 1998.

4. The records also contain a certificate of physical fitness issued by the Medical Officer which attests to the position that the age of the candidate/petitioner at the time of her joining duty was 38 years. This determination of age has been recorded based on her own statement as well as by her general appearance. This certificate is itself not dated, and contains the left thumb impression of the petitioner. The age certificate issued by the Joint Director, Health Services contains her signature written in Tamil. However, the fact that she has signed in the age certificate, in my view, does not reflect her having acquiesced to the age as recorded therein by



the Joint Director. The material on record before me does not inspire any confidence in my mind as to the scientific method adopted by either party in arriving at the age of the petitioner.

5. I am thus convinced that the proper method of ascertainment would have to be rough and ready and based upon the original records of employment that contain a certificate of a Medical Officer to the effect that the petitioner's age was 38 at the time of joining duty, on 01.07.1986. Any ambiguity or inexactitude would, I believe, have to enure to the benefit of the petitioner in the circumstances at play. Moreover, the determination of age by the Joint Director also appears to have been done unilaterally and the purpose for which she was subject to a test, might not even have been communicated to the petitioner.

6. In any event, there is no explanation for why at all the age of the petitioner as set out in the service record was doubted. After all, the difference as computed by the petitioner and the respondents is merely 5 years, not sufficient to have any significant physical or visible indications. In all, and on the strength of the discussion as above, a direction is issued to the second respondent in whose services the petitioner was last employed, to accept the determination of age as effected by the petitioner at the time of entry into service and grant the petitioner all consequential benefits of the same, treating her to have been in service for the entirety of said period. Seeing as the petitioner is a senior citizen as on date, let the amount be quantified and paid over by the second respondent to the petitioner within a period of six (6) weeks from today.

7. This writ petition stands allowed. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

vs

To

1. The Secretary to Government,
The State of Tamil Nadu,
Dept. of Municipal Administration and Water Supply,
Secretariat, Chennai-600 009.



2. The Commissioner,
Arakkonam Municipality,
Arakkonam-631 001, Vellore District.

3. The Block Development Officer,
(Panchayat Union),
Arakkonam-631 001, Vellore District.

+1cc to Mr.K.Magesh, Advocate, S.R.No.42986

+1cc to the Government Pleader, S.R.No.43020

W.P. No.23022 of 2004 and
WP.MP.Nos.27851/2004 & 22895/2005

PMK(CO)
RLP(24/09/2021)