



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) . No.16956 of 2021

and

W.M.P. (MD) . No. 13890 of 2021

WEB COPY

D.Radha

... Petitioner

Vs.

1.The State rep. by its
Principal Secretary,
Higher Education Department,
Fort St. George,
Chennai 600 009.

2.The Director of Collegiate Education,
College Road,
Chennai - 600 006.

3.The Joint Director of Collegiate Education,
Thanjavur Region,
Thanjavur.

4.The Tahsildar,
Thirumayam,
Pudukottai District.

...Respondents

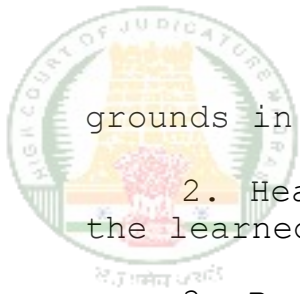
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a ***Writ of Certiorarified Mandamus***, to call for the impugned order dated 01.09.2021 made in Roc.No.26113/B2/2021 passed by the 2nd respondent and quash the same and consequently direct the respondents to permit the petitioner to serve as Junior Assistant on compassionate grounds in the 3rd respondent office.

For Petitioner : Mr.A.K.Baskara Pandian

For Respondents : Mr.S.Shanmugavel,
Standing Counsel for State.

O R D E R

This petition has been filed seeking for issuance of a ***Writ of Certiorarified Mandamus***, to call for the impugned order dated 01.09.2021 made in Roc.No.26113/B2/2021 passed by the 2nd respondent and quash the same and consequently, direct the respondents to permit the petitioner to serve as Junior Assistant on compassionate



grounds in the 3rd respondent office.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. The petitioner has challenged the impugned cancellation order passed by the second respondent. According to the petitioner, her husband namely, M.Dhakshinamorthy, died in harness on 25.12.2015, while he was serving as the Assistant Professor(Botany), leaving the petitioner and his mother as his legal representatives. The petitioner submitted an application to the respondents seeking for appointment on compassionate ground with all relevant documents. Based on the said application, the second respondent, vide his proceedings dated 07.08.2021, issued appointment order to the petitioner, temporarily appointing her as Junior Assistant and posted her in the Office of the Joint Director, Collegiate Education, Thanjavur Region and before she was assuming charge, the respondent has served impugned order dated 01.09.2021, cancelling the appointment order dated 07.08.2021 issued to the petitioner on the ground that the petitioner got remarried.

5. According to the petitioner, the respondent has not provided an opportunity of personal hearing to the petitioner and therefore, the said act of the respondent is in violation of the principles of natural justice.

6. The learned Standing counsel for the respondents would submit that if no opportunity is granted, the respondents would provide an opportunity of personal hearing to the petitioner and proceed in accordance the Government Orders and relevant Rules.

7. On perusal of the impugned order dated 01.09.2021 passed by the second respondent, particularly, references cited therein, it appears that the petitioner was temporarily appointed as Junior Assistant on 07.08.2021 as mentioned in the first reference and in the second reference, the proceedings of the Treasury Officer, Pudukkottai dated 16/2020 was referred. Therefore, it is clear from the aforesaid references in the impugned order dated 01.09.2021 that no opportunity of personal hearing was granted to the petitioner before passing the impugned order of cancellation by the second respondent. Therefore, the second respondent ought to have granted an opportunity of personal hearing to the petitioner and after getting explanation from the petitioner, the second respondent ought to have passed the order based on the explanation submitted by the petitioner. Without doing so, the second respondent has taken a decision and passed impugned order by stating the reason that the petitioner was remarried and as per the Government Order, she is not eligible for compassionate appointment. On this ground, this



Court is inclined to interfere with the aforesaid impugned order since passed in violation of principles of natural justice.

8. Accordingly, the writ petition is allowed and the impugned order dated 01.09.2021 made in Roc.No.26113/B2/2021 passed by the 2nd respondent is hereby quashed and the matter is remitted back to the second respondent to consider afresh, after providing an opportunity of personal hearing to the petitioner and pass final orders in accordance with law preferably, within a period of twelve(12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

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 Principal Secretary,
Higher Education Department,
Fort St. George, Chennai 600 009.
- 2.The Director of Collegiate Education,
College Road, Chennai - 600 006.
- 3.The Joint Director of Collegiate Education,
Thanjavur Region, Thanjavur.
- 4.The Tahsildar,
Thirumayam, Pudukottai District.

+1 CC to M/s.SPL. GP (SR-29765[F] dated 21/09/2021)

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-29613[F] dated 20/09/2021)

W.P. (MD) .No.16956 of 2021

20.09.2021

RD(12.10.2021) 3P 7C