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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.26567 OF 2009

S.Sandiravadivou

... Petitioner

.Vs.

1. The Director of Women and Child Development
Department of Women and Child Development,
Government of Puducherry,
Puducherry.

2. The Child Welfare Officer,
Department of Women and Child Development,
Government of Puducherry,
Karaikal.

... Respondents

PRAYER:-

Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records on the file of the second respondent relating to the impugned order bearing Ref.No.255/W.c..D.D/Karaikal/2006, dated 22.12.2006 and the first respondent relating to the impugned order bearing Ref.No.1084/DCWD/ICDS/STAT/legal/08-09, dated 06.05.2009 and quash the same and consequently reinstate the petitioner into services as multi-purpose Anganwadi helper and regularize the petitioner in any Group D post with effect from the date of regularization of juniors in service and pay all the backwages and all other service benefits.

For petitioner : Mr.R.Saravana
For Mr.Sai Bharath and Ilan

For Respondents : Mrs.G.D.Jearani
Government Advocate
(Pondicherry)

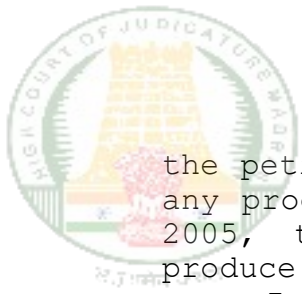


O R D E R

This Writ Petition is filed to quash the proceedings in Ref.No.255/W.c..D.D/Karaikal/2006, dated 22.12.2006 issued by the second respondent followed by the proceedings in Ref.No.1084/DCWD/ICDS/STAT/legal/08-09, dated 06.05.2009 passed by the first respondent, relieving the petitioner from service and for a consequential direction to reinstate the petitioner into service as Multi-purpose Angawadi helper and regularise her service on par with the juniors and to pay all the backwages.

2. It is the case of the petitioner that the petitioner was appointed as an Anganwadi helper on 06.08.1985 by the Director of Social Welfare Department, Government of Pondicherry. At the time of appointment, the petitioner has given her date of birth as 29.12.1950. Thereafter, on 26.08.2002, the 2nd respondent has passed the memorandum, fixing the tentative seniority list of Anganwadi helpers, wherein the name of the petitioner finds place in S.No.269 as Sandiravadivou.S. along with date of birth which is shown as 29.12.1950, based on which the respondent recognised the date of retirement of the petitioner as 29.12.2010 and directed certain Anganwadi helpers including the petitioner to appear before the committee constituted to ascertain the correct age of the said employees, to continue into service. The report was also received and based on which, by an order dated 22.12.2006, the writ petitioner was allowed to retire from service on 31.12.2006, accordingly she was relieved from service on the same day as if she attained the age of superannuation. Thereafter, the petitioner has filed a proof viz., birth certificate and the order passed by the learned Principal District Munsif, Karaikkal. Since the name of the petitioner differs in several records, she has approached the Principal District Munsif, Karaikkal seeking identification certificate, identifying the name of the petitioner viz., S.Sandiravadivou which finds place in all other records and Mourougaye which is shown in the Birth Certificate issued by the Neravy Commune Panchayat are one and the same. The learned Principal District Munsif, Karaikal has passed an order dated 21.02.2007 in favour of the petitioner, identifying the names of the petitioner viz., S.Sandiravadivou and Mourougaye are one and the same as per the records produced. Based on the aforesaid order passed by the learned District Munsif, Karaikkal, the petitioner's date of birth is 29.12.1950. It is the grievance of the petitioner that based on the report of the committee, the respondent relieved the petitioner from service on 31.12.2006 by an order dated 22.12.2006. Hence, the petitioner has preferred the present Writ Petition with the aforesaid relief's.

3. The learned Government Advocate appearing for the respondents submitted that at the time of entering into service,



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the petitioner has given her date of birth as 29.12.1950 without any proof. It is only at the time of absorption during the year 2005, the petitioner along with other helpers, required to produce certificate of proof of educational qualification and age. Including the petitioner, totally 241 women multi-purpose helpers have not produced the proof of age. Hence, the respondent department has constituted a committee in April 2006 to find out the correct age of the said Anganwadi helpers. The committee has also made an enquiry in five phases and based on which, it is determined that the petitioner would be attaining the age of 60 years in December 2006 and accordingly, the petitioner was relieved from service with effect from 31.12.2006 by an order dated 22.12.2006.

4. The learned Government Advocate further submitted that only after appearing before the said committee constituted for determination of age, the petitioner sent a legal notice dated 19.09.2006 through her advocate to the Managing Director, Pondicherry Corporation for development of Women and Handicapped Persons Ltd, Pondicherry and she has also enclosed her birth certificate issued on 16.11.2006 by the Nervy commune Panchayat, Nervy for her identification. The learned counsel further submitted that the petitioner herself filed an application in C.M.P.No.39 of 2006 under Section 151 of C.P.C., before the Principal District Munsif, Karaikal on 01.11.2006, praying to issue an identity certificate to the effect that the name mentioned in the birth certificate viz., Mourougaye and the name mentioned in the other records viz., S.Sandiravadivou are one and the same. The Identification Certificate has also been issued as prayed for on 21.02.2007. Therefore, according to the respondents, the aforesaid order, dated 21.02.2007 has been passed after determination of age by the committee constituted by the respondent. Therefore, there is no valid reason to accept the contention of the petitioner. Further the learned Government Advocate submitted that neither the respondent department nor the Neravy Commune Panchayat have been made party to the proceedings before the Principal District Munsif, Pondicherry. Hence the genuineness of the Identity Certificate is to be proved by the petitioner. On this aspect, the respondent prays for dismissal of the Writ Petition.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly the petitioner was joined into service as Anganwadi helper and the duties of such post are assisting the Anganwadi worker in cooking and serving the food to children and mothers, cleaning the premises daily, fetching water, looking after the cleanliness of young children and collecting children at the Anganwadi, etc., These Anganwadi helpers were brought



into the corporation into two phases; one in 2003 and the other in 2005. The petitioner was observed into the Corporation with effect from 01.05.2005 vide order dated 25.05.2005. At the time of absorption during the year 2005, along with similar helpers, the petitioner was also required to produce the Certificate in proof of educational qualification and age. But the petitioner did not produce any such certificate. Hence, the respondent in the year 2006, approached the Health Department and sought their assistance for determining the age of these Women Development Multipurpose Helpers. Subsequently, the Department constituted a committee for determination of the Anganwadi helpers. The petitioner was also one among the others who appeared before the Committee for determination of age. At that time also the petitioner has not produced any document, showing the date of birth as 29.12.1950. Thereafter, the committee has submitted its report to the Department, determining that the petitioner would be attaining the age of 60 years by December 2006 and accordingly she was relieved from service on 31.12.2006 on attaining the age of superannuation.

7. It is the contention of the petitioner that the date of birth is given based on the certificate issued by the Neravy Commune Panchayat, Neravy. But, for clarification of name as differs in birth certificate and other records, the petitioner approached the Principal District Munsif, Karaikal for identification certificate identifying the name of the petitioner viz., Mourougaye and S.Sandiravaidou are one and the same. The learned Principal District Munsif, Karaikkal also passed an order in favour of the petitioner. In this view of the matter, this Court has not satisfied with the explanation given by the petitioner for the reason as to why the petitioner has approached the Principal District Munsif, karaikkal after the final decision taken by the Department. However, the genuineness of the order passed by the learned Principal District Munsif, Karaikkal and the Birth Certificate issued by the Neravy Commune Panchayat have to be examined in detail by the respondent department. Unfortunately, both the respondent and the Neravy Commune Panchayat were not made party to the aforesaid proceedings before the Principal District Munsif, Karaikkal.

8. Considering the above, this Court is of the view that the respondent department has to provide an opportunity to the petitioner and find out the genuineness of the birth certificate and the order passed by the Principal District Munsif, Karaikkal and to take appropriate decision in accordance with law. Therefore, the proceedings impugned in this writ Petition dated 22.12.2006 and 06.05.2009 are hereby set aside and the matter is remitted back to the 1st respondent to take appropriate decision on the following terms:



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i. the respondent/department is directed to serve notice to the petitioner for furnishing all original documents with regard to the name and proof of age, within a period of four weeks from the date of receipt of a copy of this order

ii. on receipt of the said notice, the writ petitioner shall produce all the original documents including the birth certificate issued by the Neravy Commune Panchayat and the order passed by the Principal District Munsif, Karakkal to the 1st respondent, within a period of four weeks thereafter.

iii. The 1st respondent is directed to examine the aforesaid documents and take appropriate decision on merits and in accordance with law as expeditiously as possible within a period of three months thereafter.

iv. Any of the observations made in this order will not be influenced by the department to take final decision.

With the above directions, this Writ Petition is allowed.
No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Director of Women and Child Development,
Department of Women and Child Development,
Government of Puducherry,
Puducherry.
2. The Child Welfare Officer,
Department of Women and Child Development,
Government of Puducherry,
Karaikal.

+1cc to Mr.T.Saikrishnan, Advocate, S.R.No.748

+1cc to the Government Pleader, S.R.No.885

W.P.NO.26567 OF 2009

PVS(CO)
PBS/31/01/2022