



W.P.(MD).No.16038 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.16038 of 2022

and

W.M.P.(MD).No.11599 of 2022

1.R.Dharmambal

2.T.Senthilkumar

3.T.Ramanan

... Petitioners

Vs.

1.The Commissioner of School Education,
College Road,
Chennai – 600 006.

2.The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District – 629 001.

3.The District Educational Officer,
Thuckalay,
Kanyakumari District.

4.The Headmaster,
The Government High School,
Parvathipuram,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent



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District Educational Officer, Thuckalay in Na.Ka.No.7598/A1/2019 dated 09.04.2021, quash the same and further direct respondents to sanction and disburse retirement benefits of the first petitioner's husband namely, P. Thiyagan to the petitioners, and further sanction family pension to the first petitioner.

For Petitioners : Mr.S.Xavier Rajini
For Respondents : Mr.V.Nirmal Kumar,
Government Advocate.

ORDER

The petitioners herein are the legal heirs of one, Mr.P.Thiyagan, who while serving as Office Assistant in the fourth respondent School, had applied for medical leave on 27.09.2019 and thereafter, not reported for duty. Based on the letter of the fourth respondent dated 22.01.2020, stating that the said employee, P.Thiyagan, had not reported for duty after 27.09.2019, the third respondent had sent a show cause notice to the last known address of the employee, which was returned as “addressee left”. Based on the subsequent reports of the Village Administrative Officer and the Tahsildar, the third respondent herein had passed the impugned order, dated 09.04.2021, imposing the punishment of removal from service of Mr.P.Thiyagan from the post of Office Assistant. This order is put under challenge in this Writ Petition by the legal heirs of Mr.P.Thiyagan.



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2. It is now stated that the employee, Mr.P.Thiyagan, had expired on 18.10.2019 itself and his death was not neither known to the family members nor to the respondents herein immediately. It is in this background that the respondents had initiated proceedings against the employee and had ultimately imposed the punishment of removal from service. Apparently, the employee had already died on the date on which the impugned order of punishment was passed. Thus, the order of punishment itself had become redundant, since the same was imposed on a dead person.

3. Strictly speaking, the proceedings imposing the penalty cannot be found fault with, since they were not aware of the death of the employee on the date when the notices were issued, as well as when the punishment was imposed. However, the fact remains that the order itself is redundant, as on the date of the punishment, in view of the death of the employee. Consequently, it requires to be held that the employee, Mr.P.Thiyagan, was deemed to be in service till the date of his death, i.e., till 18.10.2019. If that be so, the petitioners herein, who are his legal heirs, would be entitled for the Death Cum Retirement Benefits of the late.P.Thiyagan, Office Assistant.



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4. In the light of the above findings and observations, the impugned order, dated 09.04.2021, on the file of the third respondent, is quashed. Consequently, there shall be a direction to the respondents herein to pass appropriate orders, declaring that late.P.Thiyagan, Office Assistant, was in service till 18.10.2019 (the date of his death) and thereby, disburse the entire Death Cum Retirement Benefits including the family pension to the petitioners herein, within a period of six (6) weeks, from the date of receipt of a copy of this order.

5. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Lm



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M.S.RAMESH, J.

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