



W.P(MD)No.5977 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.5977 of 2016

and

W.M.P(MD).Nos.5301 and 5302 of 2016

T.Vimala Rose,

: Petitioner

Vs

1. The Chief Educational Officer,
The Chief Educational Office,
Nagercoil-1,
Kanyakumari District

2. The Headmistress,
Government High School,
Irrulappapuram,
Nagercoil-2,
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 to call for the records relating to the impugned order passed by the 2nd respondent in his proceeding in Na.Ka.No.116A/2015, dated 07.04.2015, quash the same and



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consequently directing the respondents to regularize the service of the petitioner from 24.12.2014 to 23.02.2015 and pay the salary for this period from 24.12.2014 to 23.02.2015.

For Petitioner : Mr.K.Sathiya Singh

For Respondents : Mr.S.Kameswaran

Government Advocate (Civil Side)

ORDER

This writ petition had been filed for issuance of Certiorarified Mandamus to quash the impugned order passed by the second respondent in his proceeding in Na.Ka.No.116A/2015, dated 07.04.2015, and consequently, to direct the respondents to regularize the service of the petitioner from 24.12.2014 to 23.02.2015 and pay the salary for the said period.

2. The brief facts of the case are that on 26.09.1994, the petitioner had joined as Graduate Teacher (Maths) in the second respondent Government High School. On 27.10.2005, the petitioner was transferred to Government Higher Secondary School at Arumanallur, Kanyakumari District. Again, on



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03.06.2008, she was transferred to second respondent Irrulappapuram High School and she was working there until the filing of the present writ petition.

The petitioner underwent Uterus Surgical Operation in the Kerala Institute of Medical Science, Thiruvananthapuram in order to remove her Uterus and Ovary. The petitioner was under medical leave from 25.09.2014 to 23.12.2014 i.e., for ninety days. The petitioner had sent an application for medical leave through speed post and presented the same to the second respondent in person. After the said operation, the petitioner had requested to join in service and also submitted the medical fitness certificate. But the second respondent did not allow her to join duty from 24.12.2014 stating that the first respondent has not granted any permission to allow the petitioner to join the duty. Therefore, the petitioner was not allowed to join the service on 24.12.2014. Subsequently, the petitioner has approached the first respondent and then, she was allowed to join service only from 23.02.2015.

3. The contention of the petitioner is that since the respondents did not allow her to join in service, the petitioner could not carry on the work from 24.12.2014 to 23.02.2015. Based on the medical fitness certificate, the respondents have regularized the period from 25.09.2014 to 23.12.2014.



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However, the respondents did not regularize the period from 24.12.2014 to 23.02.2015.

4. The learned Government Advocate (Civil Side) appearing for the respondents submitted that the petitioner did not join the duty during that period. But the Learned Counsel appearing for the petitioner submitted that the respondents did not allow the petitioner to join the duty.

5. The relevant portion of the impugned order says as follows:

'ஆனால் மீள பணியில் சேர நியமன அலுவலரின் முன் அனுமதி பெறாததால் உடனடியாக பணியில் சேர முடியவில்லை.'

The respondents had stated that the petitioner could not join the duty and has not stated what are the reasons that the petitioner could not join the duty. But the claim of the petitioner is that the respondents did not allow the petitioner to join the duty, for which the respondents have not denied at all. The respondents have put the blame on the petitioner and the same is unbelievable. Therefore, the impugned order dated 07.04.2015, is hereby set aside and the respondents are directed to regularize the period from 24.12.2014 to 23.02.2015 as duty period and pay salary to the said period.



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The said exercise shall be completed within a period of six weeks, from the date of receipt of a copy of this order.

6. With the above direction, this writ petition stands allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To
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2. The Headmistress,
Government High School,
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Kanyakumari District



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S.SRIMATHY, J.

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