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WP.No. 23535 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 23535 of 2016

S. Pushpavathy

...Petitioner

Versus

1. Government of Tamil Nadu
Represented by its Secretary to Government
Social Welfare and NMP. Department
Secretariat, Chennai - 600 009.
2. The Director
Integrated Child Development Scheme
Tharamani, Chennai-600 113.
3. The District Project Officer
Integrated Child Development Scheme
Tiruvallur District, Tiruvallur.
4. The Project Officer
Integrated Child Development Scheme
Cholavaram Block
Cholavaram, Tiruvallur District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to



WP.No. 23535 of 2016

issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the 4th respondent in O.Mu.No. 181/2014, dated 06.11.2014 and quash the same and for consequential direction to the respondents to regularize the period from 18.05.2004 to 15.05.2008 as duty for all purposes on notional basis and grant promotion and all consequential benefits.

For Petitioner : Mr.M. Ravi
for Mr.S.Manivannan

For Respondents : Mr.T.Chezhan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the fourth respondent in O.Mu.No.181/2014, dated 06.11.2014 and quash the same and for consequential direction to the respondents to regularize the period from 18.05.2004 to 15.05.2008 as duty for all purposes on notional basis and grant promotion and all consequential benefits.

2. The petitioner was appointed as Child Development Organizer in the Noon-Meal-Centre in Inam Agaram Village, Cholavaram Block, Tiruvallur District on 11.08.1982 and she joined duty on 15.08.1982 and rendered unblemished service. Due to family circumstances, she resigned her job on 09.01.2004, but later on, on realizing the consequences thereof,



WP.No. 23535 of 2016

she withdrew the resignation on 10.03.2004. Pursuant to the same, the fourth respondent accepted her resignation on 18.05.2004. Thereafter, the petitioner made several representations to the Departmental Authorities to reinstate her into service, but they did not evoke any response, and hence, she submitted a representation to the Hon'ble Chief Minister's Special Cell in this regard. While so, the Government has passed an order dated 07.01.2008 by cancelling the order dated 18.05.2004, accepting the resignation and the petitioner's reinstatement was accepted. Thereafter, the petitioner was reinstated into service and she joined duty on 15.05.2008. Hence, the petitioner submitted various representations to the respondents 3 and 4 to regularize the period of her non-employment from 18.05.2004 to 15.05.2008 as "duty" and the same were rejected by the 4th respondent, by order dated 06.11.2014. Thereafter, she has preferred an appeal before the 2nd respondent dated 06.01.2015 and since there was no response, she preferred further appeal dated 01.07.2015 to the Government and since there is no reply from the Government, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India to quash the impugned order passed by the fourth respondent dated 06.11.2014 and for consequential direction to the respondents to regularize the period from



WP.No. 23535 of 2016

18.05.2004 to 15.05.2008.

WEB COPY

3. Counter affidavit has been filed by the third and fourth respondents stating that the petitioner was appointed as Child Development Organizer in the Noon-Meal-Center at Inam Agaram Village in Cholavaram Block, vide proceedings in Na.Ka.No.3934/82/A4, dated 11.08.1982 of the Panchayat Union Commissioner, Cholavaram and she continued to work in the said post from 15.08.1982. Due to some family dispute, she submitted her resignation on 09.01.2004 and the Child Development Officer, Cholavaram Block, relieved her from service, by order dated 18.05.2004. The petitioner has been reappointed in service, vide letter No.8162/SW7(1)/2006, dated 07.01.2008 as Anganwadi Worker, and she joined duty on 15.05.2008. On 09.04.2008, the petitioner has given an undertaking to the District Project Officer, Social Welfare Department, Tiruvallur District, stating that she will not claim any back-wages or any other benefits for the period from 09.01.2004 to 09.04.2008 and she will not file any case before the Court of law, claiming any relief for the period in which she was not in service. Further, the petitioner had requested the respondents to regularize her service from 18.5.2004 to 14.05.2008, during which period she has not rendered



WP.No. 23535 of 2016

service and that her earlier service from 15.08.1982 to 18.05.2004 has to be taken into account to fix the seniority on par with the Anganwadi Workers who are in continuous service without any break, and also to consider her relief for further promotion. The fourth respondent by letter dated 06.11.2014 informed the petitioner that her appointment from 15.05.2008 would be considered only as fresh appointment and that her earlier service will not be taken into account, either for regularization, or for promotion as per the relevant Rules. Therefore, G.O.(Ms).No.4, Social Welfare and Nutrious Meal Department, dated 09.01.1995 is not applicable to the petitioner herein. Hence, the respondents pray to dismiss the above writ petition.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials placed on record.

5. On a perusal of the averments made in the affidavit filed in support of the writ petition as well as the averments made in the counter affidavit filed by the third and fourth respondents, it reveals that the petitioner was appointed on 15.08.1982 as Child Development Organizer at Inam Agaram



WP.No. 23535 of 2016

Village, by way of proceedings in Na.Ka.No.3934/82/A4, dated 11.08.1982 of the Panchayat Union Commissioner, Cholavaram. Due to family circumstances, she resigned her job on 09.01.2004 and based upon her resignation letter, the fourth respondent relieved her from service on 18.05.2004. Thereafter, she made a representation dated 07.07.2004 to the second respondent to reinstate her into service in the post of Child Development Organizer and her representation was forwarded to the Commissioner of Panchayat Union, Cholavaram, the District Collector, Tiruvallur District and the Chief Minister's Cell. Pursuant to the same, the petitioner has been re-appointed in service, vide letter No. 8162/S.W.7(1)/2006, dated 07.01.2008 as Anganwadi Worker, and pursuant to the same, the petitioner joined duty on 15.05.2008.

6. On a further perusal of the records, it reveals that the petitioner has given an undertaking to the 4th respondent/District Project Officer, Social Welfare Department, Tiruvallur stating that, she will not claim any back-wages or any other benefits for the period from 09.01.2004 to 09.04.2008 and that she will not prefer any case before the Court claiming any relief for



WP.No. 23535 of 2016

the period in which she was not in service. It reveals that the petitioner had requested to regularise her service from 18.05.2004 to 14.05.2008, during which period, she has not been in service and her earlier service from 15.08.1982 to 18.05.2004 has to be taken into account to fix the seniority on par with the Anganwadi Workers who are in continuous service without any break. The fourth respondent by way of letter in O.Mu.No.181 of 2014, dated 06.11.2014 informed the petitioner that her appointment from 15.05.2008 will be considered only as "fresh appointment" and her earlier services will not be taken into account either for regularization or for the purpose of promotion as per the Rules in force.

7. It is also seen that even after receiving the reply from the fourth respondent, the petitioner sent several letters to the Higher Authorities to consider the services rendered by her earlier. As there is no provision to consider the request of the petitioner, the same has been informed to the petitioner. Further-more, the petitioner has resigned from the post of Child Development Organizer on her own and as such, the question of consideration to reinstate her in service will not arise. The petitioner's resignation has been accepted and after a lapse of four years, she had been



WP.No. 23535 of 2016

considered for fresh appointment as Anganwadi Worker, which is to be considered only as fresh appointment and she will be entitled for the service benefits only from the date of her reappointment as Anganwadi Worker. While so, her seniority and the promotion, if any would be taken into account only from 15.05.2008 i.e., from the date of her re-appointment.

8. It is made clear that the petitioner has not rendered her service for the break-up period and hence, she is not entitled to claim any benefit during the period from 18.05.2004 to 14.05.2008.

9. Hence, in the above circumstances, this Court is not inclined to interfere with the impugned order passed by the fourth respondent, and the same is liable to be dismissed. Accordingly, the writ petition is dismissed.
No costs.

09.03.2023

msm

Index by : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



WEB COPY



WP.No. 23535 of 2016

V.BHAVANI SUBBAROYAN, J.

msm

W.P.No. 23535 of 2016

09.03.2023