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W.P No.11849 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.09.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.11849 of 2019

B.Gayathri

... Petitioner

-Vs-

1. The Director of Treasuries
Directorate of Treasuries and Accounts
Chennai - 600 005.
2. The Joint Director of Treasuries
(Administration)
Directorate of Treasuries and Accounts
Chennai - 600 005.
3. The District Treasury Officer,
Erode.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to regularise the services of the petitioner's deceased husband (R.Ramamoorthy) and to declare completion of his probation and to grant all consequential benefits of grant of annual increments and revision of pay and all other benefits and



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to grant DCRG as well as Pensionary benefits with interest on the delayed payments to the petitioner herein and in view of the changed circumstances consider the claim of the petitioner herein for appointment on compassionate grounds.

For Petitioner : Mr. M.Ravi

For Respondents : Mr. U.Baranidharan
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of Mandamus directing the respondents to regularise the service of the husband of the petitioner, R.Ramamoorthy, who died while in service on 11.10.2014 suffering from Diabetic, Blood Pressure and Paralysis at Government Hospital at Salem and consequently to declare that he had completed his probation and grant consequential benefits of annual increments and revision of pay and other benefits to the petitioner herein.

2. The husband of the petitioner R.Ramamoorthy had been appointed as Junior Assistant in the District Treasuries Office at Erode. His



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father was serving as Office Assistant at Sub Treasury Office at Salem and died while in service. Thereafter, the husband of the petitioner was appointed as Junior Assistant on compassionate grounds on 09.10.1998. Even before his probation could be declared on 05.01.2002, he was terminated from service.

3. The respondents had raised issues with respect to the educational certificates submitted by the husband of the petitioner herein. He filed O.A.No. 175 of 2022 before the Tamilnadu Administrative Tribunal. It was transferred to this Court and renumbered as W.P.No. 11834 of 2007. A learned Single Judge of this Court had set aside the order of termination of service and had held as follows:-

“7. It is therefore clear that the impugned order was passed without giving an opportunity to the petitioner and without holding enquiry. The service of the petitioner should not have been terminated in this fashion, when the termination



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of service would take away his right to livelihood. The impugned order is violative of Article 14 and 21 of the Constitution, as it infringes the right to livelihood of the petitioner and his family. Therefore, the impugned order is liable to be quashed.

8. Accordingly, the impugned order is quashed and the respondents are at liberty to proceed with the matter and to decide the matter after providing reasonable opportunity to the petitioner. No costs.”

4. But however, the respondents pursued with the issues relating to the certificates produced by the petitioner and had given a complaint before the Crime Branch at Erode and consequent to their investigation, a final report had been filed which was taken cognizance as C.C.No. 431 of 2002 by the learned Judicial Magistrate No.III, Erode. The husband of the petitioner was convicted by Judgment dated 20.04.2007. An appeal was filed in C.A.No. 101 of 2007, before the Additional District Judge / Fast



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Track Court -I at Erode, who by a Judgment dated 17.09.2007 confirmed the conviction of the husband of the petitioner herein.

5. As against that the order of the Additional District Judge / Fast Track Court, the husband of the petitioner filed CrI.R.C.No. 1840 of 2007 by a Judgment dated 25.07.2011. A learned Single Judge of this Court had set aside the conviction and sentence imposed and had acquitted the husband of the petitioner of all charges.

6. Thereafter, the husband of the petitioner was permitted to join back as Junior Assistant by an order dated 12.03.2012. He also joined on 14.03.2012. He thereafter died while in service on 11.12.2014.

7. After about a year, on 27.04.2015, formal proceedings were issued by the third respondent / the District Treasury Officer, Erode, dropping the charges against the husband of the petitioner consequent to his death and declaring as abated.



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8. The petitioner had also given a representation seeking payment of family pension and other benefits and there being no response, has filed the present Writ Petition originally in the nature of a Mandamus seeking payment of such monetary benefits, and later on perusal of the counter affidavit wherein it was stated that the husband of the petitioner had not been regularised, seeking regularisation of the service of her husband and payment of terminal benefits.

9. In the counter affidavit filed by the respondents, it had been stated that after the directions of this Court, the husband of the petitioner was reinstated into Government service on 14.03.2012 by a letter of the Commissoinerate of Treasuries and Accounts, Chennai, in R.C.No. 41180 / C4/2009 dated 15.02.2012. Salary was also paid to him from 14.03.2012 till 25.09.2012. He went on leave from 26.09.2012 and unfortunately died on 11.10.2014.

10. It had been stated that his service had not been regularised and therefore, no deduction was effected for recovery of special provident fund



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and towards General Provident Fund. It had been stated that duty salary for the period for which her husband worked had already been claimed and paid then and there. It had been stated that no amount is due to be paid to the petitioner herein.

11. Heard arguments advanced by Mr. M.Ravi, learned counsel for the petitioner and Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents.

12. By way of amendment, the relief of regularisation of the service of the husband of the petitioner, who was originally appointed as Junior Assistant on compassionate grounds in District Treasuries Officer at Erode, was also sought. Much earlier, his father was working as Office Assistant in District Treasury Officer at Salem and died while in service. Subsequently, her husband was appointed on compassionate grounds as Junior Assistant. When he was so appointed as Junior Assistant, the only issue was with respect to the declaration of probation. The Probation



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should have been declared within a period of two years. The period could be extended for a period of one year but if it is not so declared, then it is deemed to have been declared. Probation had however not been declared since on verification of the certificates submitted by him, the respondents entertained a doubt about their veracity and had also thought it necessary to lodge a complaint before the Crime Branch at Erode. On investigation, a final report was filed which was taken cognizance as C.C.No. 431 of 2002 by the learned Judicial Magistrate No.III, Erode. On conclusion of trial, by Judgment dated 20.04.2007, an order of conviction was passed. An appeal was filed in C.A.No. 101 of 2007 by the husband of the petitioner herein before the Additional District Judge / Fast Track Court-I at Erode and by a Judgment dated 17.09.2007, the conviction was confirmed. Thereafter, he filed CrI.R.C.No. 1840 of 2007 which came up for consideration before a learned Single Judge of this Court. By order dated 25.07.2011, the conviction was set aside and he was acquitted of all charges. In effect, it has to be held that no stigma could be laid on the allegation of protection of certificates.



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13. The respondents had also dismissed him from service by order dated 05.01.2002. This was challenged in O.A.No. 175 of 2002 before Tamilnadu Administrative Tribunal. On transfer to this Court, it was renumbered as W.P.No. 11837 of 2007 and a learned Single Judge of this Court had set aside the said termination.

14. A combined reading of the order in the Writ Petition and Criminal Revision would show that the husband of the petitioner must be deemed to have been in continuous employment from the date of his initial appointment on 09.10.1998. Even in the counter affidavit, the word used when he was subsequently permitted to join office was '*reinstatement*'. It was not a fresh appointment. This reinstatement was by the Commissionerate of Treasuries and Accounts, Chennai, in communication in R.C.No. 41180 / C4/ 2009 dated 15.02.2012. Once he had been reinstated into service then he would be entitled to all benefits which would accrued to him had he been in continuous service. His service has been frustrated only owing to a doubt raised by the respondents about the veracity of the



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certificates and finally that doubt had been erased by the passing of order in the aforementioned Criminal Revision by a learned Single Judge of this Court. The attempts of the respondents to terminate his service did pass the scrutiny of another learned Single Judge, who in the Writ Petition had directed reinstatement.

15. Therefore the husband of the petitioner had been cleared all charges that he had produced certificates doubtful in nature while joining as Junior Assistant. It only follows that his service should have been regularised. I hold that it should be considered as regular service and only probation should have been declared since he had been appointed on compassionate grounds. The respondents may therefore issue necessary proceedings on the terminal benefits to be paid to the petitioner herein recognising her as widow of their own employee R.Ramamoorthy. Necessary proceedings in this regard may be issued within a period of 12 weeks from the date of receipt of a copy of this order.



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16. In the relief sought, interest was also sought on the DCRG amount. But if the respondents issue proceedings within a period of 12 weeks as stated, then interest would not be payable, but if there is delay, then interest at 12% p.a, would follow on the DCRG amount which is payable to the petitioner.

17. The petitioner had also given an application seeking compassionate employment. If the petitioner is otherwise eligible, the respondents may take a considered decision depending on facts and circumstances. The discretion is entirely vested with the respondents to take any decision.

18. Accordingly, the Writ Petition stands disposed of. No order as to costs.

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Index:Yes/No

Neutral Citation:Yes/No



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C.V.KARTHIKEYAN,J.

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(Administration)
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