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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.06.2023

CORAM:

THE HONOURABLE Mr.JUSTICE **V.LAKSHMINARAYANAN**

W.P.No.23501 of 2014
and
M.P.Nos.2 and 3 of 2014

1.M.Kalaiselvi (Deceased)
2.Subramanian
3.Tmt.Sri Devi
4.Ilayaraja
5.Selvi Jenifa. ..Petitioners.

(Petitioner Nos.2 to 5 substituted as LR's of deceased Sole Petitioner vide order dated 29.03.2023 made in W.M.P.No.32112/2022 in W.P.No.23501/2014 by JNBJ)

Vs.

1.The State of Tamil Nadu,
Rep.by the Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department
Secretariat, Chennai - 600 009.

2.The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
Chennai - 600 003.

3.The Director of Social Welfare
and Nutritious Meal Programme
Chepauk, Chennai - 600 005. ...Respondents.

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for records pertaining to impugned charge memo in Na.Ka.No.27940/Nir.5.3/2007, dated 06.03.2008 following dismissal order passed in Pro.No.27940/Ad5.3/2007 dated 15.07.2011 by the 3rd respondent and rejection order of 1st respondent in his G.O.(D) No.39 Social Welfare and Nutritious Meal Programme (SW1) Department dated 29.04.2013 and concurrence letter of 2nd respondent in No.260/DCD-A1/2013.1 dated 18.03.2013 and quash the same thereby direct the 1st respondent to pay all pensionary benefits from the date of superannuation.

For Petitioners : Mr.A.R.Nixon
For Respondents :
For R1 : Mr.M.Rajendran
: Additional Government Pleader
For R2 : Mr.R.Bharanidharan
For R3 : -NA-

O R D E R

The deceased was appointed as an organizer in Balwadi School on 28.10.1972. At that time her educational qualifications was SSLC failed. In order to improve her qualification, she appeared as a private candidate at the Government Higher Secondary School (Chidambaram) held in October 1992. She claims that she had passed the examination and was appointed as Grama Sevika. Subsequently, the said post was re-designated as Rural Welfare Officer (Woman). She joined duty on

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07.12.1994 as Rural Welfare Officer (Woman) in Nannilam Panchayat Union and thereafter she was transferred to Keerapalayam Panchayat Union in Cuddalore District. According to her, she was discharging her duties in proper manner, yet she was suspended from service on 06.03.1998. The charge against her was that she had produced bogus SSLC certificate. She was subsequently removed from service. Challenging the same, she filed an appeal. This appeal was rejected on 15.07.2011 by the 3rd respondent. She preferred a revision to the first respondent which also ended in dismissal on 29.04.2013. Challenging the same, the present writ petition has been filed.

2. The learned Counsel for the petitioner would argue that the fact that the document was forged was not proved beyond reasonable doubt by the respondent. Therefore, to dismiss her from service is not proper. He would further add that the petitioner had been properly appointed as an organiser and therefore, she should not have been visited with an order of dismissal. He would plead that the petitioner could have been continued in service as an organizer and reverted in service as an

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organizer in the Balwadi School.

3. Learned Counsel for the petitioner drew my attention to the report filed by the TNPSC. In paragraph No.7, it is stated that enquiry officer came to a conclusion that the certificate was a bogus one because the appellant/writ petitioner had admitted to the fact that the certificate is a bogus one. It was only thereafter a show cause notice was issued. Finally the order of dismissal was passed. Once the petitioner admits to the bogus nature of her SSLC passing certificate, nothing further needs to be proved by the respondent. Therefore, the finding of guilt for submitting a forged certificate, by the petitioner need not be interfered with.

4.The next plea raised by the learned Counsel for the petitioner is that the dismissal from service was after a period nearly 27 years in Government service [She joined service on 28.10.1972 and dismissed on 06.03.1998] within a few months before her superannuation is harsh and excessive.

5.I find force in this submission. The initial appointment of the

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petitioner is not vitiated by the act of forgery. It is the subsequent promotion to the post of Rural Welfare Officer that was tainted. In the meanwhile, the petitioner had served in the department for nearly three decades. Apart from this sole act of production of certificate, there has been no allegation against the petitioner at the initial appointment itself been tainted with acts of forgery. Dismissal of service would be the appropriate punishment. The order does not reflect consideration of this aspect. Doctrine of Proportionality is an essential principle in administrative law. The authority should have recorded the reason why he is imposed with punishment of dismissal instead of lesser punishment. I am not able to find that reason in the order. Removal of person on the verge of retirement, is indeed harsh, excessive and disproportionate. Therefore, I am interfering with that portion of the order.

6. It is pertinent to point out that the petitioner was qualified to be appointed as an organizer and possesses all the requisite qualifications to that post. It was only in the higher post she was not qualified and had

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indulged in an act of forgery. Therefore, I modify the order of punishment imposed on the petitioner from one of removal from service to one of reversion as organiser in Balwadi School. The petitioner will not be entitled to any backwages or financial benefits. This will be taken into consideration only for the purpose of fixing her pension.

7.With the above modification, the writ petition stands partly allowed. I am taking this view that she was punished on the verge of retirement. Connected Miscellaneous Petitions are closed. No costs.

12.06.2023

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Index : Yes/No
Speaking : Yes/No
Neutral Citation Case : Yes/No

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V.LAKSHMINARAYANAN,J
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To:

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Rep.by the Secretary to Government,
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