



W.P.(MD)No. 202 of 2011

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 202 of 2011

M.Pavalakodi

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Personal Assistant (Noon-meal)
to the Collector,
Virudhunagar District,
Virudhunagar.

3. The Commissioner,
Kariapatti Panchayat Union,
Kariapatti,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records of the 1st respondent relating to the impugned order in Na.ka.R3/7481/08, dated 03.08.2010 and quash the same and consequently directing the respondents to instate the petitioner into service.



W.P.(MD)No. 202 of 2011

WEB COPY

For Petitioner : Mr.A.K.Hema Raj
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed to quash the impugned order, dated 03.08.2010 and seeking consequential relief to direct the respondents to reinstate the petitioner into service.

2. Heard Mr.A.K.Hema Raj, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondents. Perused the material documents available on record.

3. The petitioner was appointed as Noon-Meal Organizer on 05.04.1996. The petitioner applied leave for a period from 11.03.2008 to 30.04.2008, due to uterus hemorrhage, resulting in continuous absence from duty upto 07.10.2009. The respondents have not considered the petitioner under



W.P.(MD)No. 202 of 2011

WEB COPY

medical ground.

4. Thereafter in order to join the duty on 09.03.2009, the petitioner has produced medical certificate along with fitness certificate. The medical certificate has covered the period from 01.05.2008 to 08.03.2009. The respondents have allowed the petitioner to join in the duty. But the respondents had not referred the petitioner to the Medical Board. Subsequently, the respondent has passed the impugned order, dated 03.08.2010, terminating the petitioner's service. Hence, this instant writ petition is filed.

5. The contention of the petitioner is that the petitioner had approached the respondents several times to grant permission to join duty and condone the absence period. However, the respondents have not responded to the petitioner's claim.

6. On perusal of the impugned order, it is seen that the respondents have accepted that the petitioner has submitted medical certificate and fitness certificate. But the respondents have stated that the genuineness of the medical



W.P.(MD)No. 202 of 2011

WEB COPY

certificate could not be ascertained. For which reason, the respondents have passed the impugned order of dismissal from service.

7. If the respondent is doubting the genuinity of illness and if the respondent is not accepting the said medical certificates, the respondents ought to have referred the petitioner to the Medical Board. After obtaining medical opinion from the Medical Board, the respondents ought to have taken a decision. Hence, this Court is of the considered opinion that the reason stated in the impugned order is totally illegal. Therefore, the impugned order is liable to be quashed.

8. Accordingly, the impugned order, dated 03.08.2010 in Na.Ka. R3/7481/08 passed by the 1st respondent is hereby quashed. The petitioner is entitled to continuity of service, however the petitioner is entitled for backwages only for a period from 11.03.2008 to 02.08.2010. The petitioner is not entitled to backwages from 03.08.2010 to 16.02.2023. The petitioner is entitled to salary from 01.04.2023, onwards.



WEB COPY



W.P.(MD)No. 202 of 2011

9. With these observations, this Writ Petition is allowed. No Costs.

Index : Yes / No

Internet : Yes

ksa

Note: Issue order copy on **28.02.2023**.

16.02.2023

(2/2)

To:

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Personal Assistant (Noon-meal)
to the Collector,
Virudhunagar District,
Virudhunagar.
3. The Commissioner,
Kariapatti Panchayat Union,
Kariapatti,
Virudhunagar District.



WEB COPY



W.P.(MD)No. 202 of 2011

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 202 of 2011
(2/2)**

16.02.2023