



W.P(MD)No.6974 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6974 of 2023

and

W.M.P.(MD)No.6590 of 2023

N.Anantha Jothi

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep.by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-9.
- 2.The Director of Rural Development and Panchayat Raj,
Directorate of Rural Development and Panchayat Raj,
Panagal Building,
Chennai-600 015.
- 3.The District Collector,
Virudhunagar District,
Virudhunagar.
- 4.The Personal Assistant to District Collector (Development),
Collector Office Campus,
Virudhuangar District,
Virudhunagar.
- 5.The Assistant Director of Rural Development (Panchayat),
O/o. The Assistant Director of Rural Development,
Virudhunagar,



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Virudhunagar District.

6. The Block Development Officer (Village Panchayat)
O/o. The Block Development Officer,
Kariapatti,
Virudhunagar District.

7. The President,
P.Pudupatti Panchayat,
Pudupatti Post,
Kalkurichi,
Virudhunagar District.

8. The President,
D.Kadamangalam Panchayat,
Kariapatti Panchayat Union & Taluk,
Virudhunagar 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 pertaining to the impugned order in Na.Ka.No.R2/23831/2020, dated 18.01.2023 on the file of the third respondent and quash the same as illegal and consequently, for a direction, directing the third respondent to appoint the petitioner as Panchayat Secretary in any of the available vacancies in the light of the Judgment rendered by this Court in W.P.(MD)No.18626 of 2020, dated 16.09.2020 within a time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
for M/s.Lajapathi Roy and Associates

For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader for R1 to R6
: Mr.M.Siddharthan
Additional Government Pleader for R7 & R8



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ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as Panchayat Assistant on 15.10.2010 in P.Pudupatti Panchayat, Virudhunagar District. She submitted her resignation sometime in 2014. The petitioner got married on 06.12.2013 and later gave birth to twin babies. The stand of the petitioner is that since she was not given maternity leave on account of the relationship with the new panchayat president, she gave her resignation. She however argues that since no order was passed on the resignation, it must be deemed that she continues to be in employment. She sought reinstatement. Her request was rejected. Hence, she filed W.P.(MD)No.18626 of 2020. Even while declining to interfere with the order impugned in the writ petition and holding that the petitioner's resignation is deemed to have been accepted, I gave liberty to the petitioner to submit a fresh representation and I indicated that it is open to the competent authority to revisit the issue and adopt a compassionate approach bearing in mind the changed policy conditions. However, the competent authority has declined to consider the case of the petitioner. The proceedings dated 18.01.2023 were issued to that effect. Challenging the same, the present writ petition came to be filed.



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3. The learned counsel appearing for the petitioner submitted that the impugned order has been mechanically passed and that the District Collector has not taken into account the observations made by this Court. The learned counsel appearing for the petitioner is quite justified in his contention that the District Collector has not taken into account the fact that the petitioner is a woman and that she had to resign under certain circumstances and that therefore, she can be taken as a fresh entrant. However, on this ground, I will not be justified in interfering with the order. Earlier order of rejection was sustained by me vide order dated 16.09.2022 in W.P.(MD)No.18626 of 2020. I will not be justified in directing the authorities to take back the petitioner in service, when the petitioner had not succeeded in her earlier round. The fact remains that the petitioner had quit her service. A person who had resigned from service cannot insist as a matter of right that she should be taken back either by way of reinstatement or as a fresh entrant. These are matters that are left entirely to the discretion of the department. It is not for the writ court to interfere with the discretion of the competent authority. I do not find any ground to grant relief.



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4. The Writ Petition is dismissed. No costs. Consequently, connected

miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes/ No

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To

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