



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7732 of 2023

and

WMP(MD)No.7185 of 2023

Vijayalakshmi

... Petitioner

Vs.

1.The Director of Integrated Child
Welfare Department,
Pammal Nallathambi Street,
Periyar Nagar, Tharamani,
Chennai – 113.

2.The District Programme Officer,
The Integrated Child Welfare Service
District Level Officer's Complex Block-2,
Theni, Theni District.

3.The Child Welfare Program Officer,
Theni Town, Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent in Na.Ka.No. 2600/A1/2013 dated 19.08.2013 and quash the same as illegal and consequently directing the respondents to disburse the petitioner's terminal benefits and sanction petition within the time frame fixed by this Court.



For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.T.Villavan Kothai,
Additional Government Pleader
for R1 and R2

ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed as Anganwadi Cook on daily wages basis in Bodinayakanur, Theni District in the year 1983. He became Anganwadi Helper on 01.08.1991. He was serving in that capacity for twenty one years. Due to medical reasons, she was unauthorizedly absent for quite some time. She was therefore terminated from service vide order dated 19.08.2013. Challenging the same, this present writ petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant the relief as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through their contents. The learned Government



counsel relied on G.O Ms.No.4, Social Welfare and Noon Meal Department dated 09.01.1995 in support of his contention that if an Anganwadi employee is found unauthorisedly absent for six months, he or she can be terminated from service. He submitted that even though the order was passed way back in 2013, this writ petition has been filed only in 2023. He would submit that the writ petition clearly suffers from the vice of laches. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.The learned counsel for the petitioner even at the outset stated that the petitioner will be satisfied if the termination order is converted into one of retirement. From the materials enclosed in the typed set of papers, it is seen that the petitioner had developed brain tumor. She had undergone operation at KMCH Hospital, Coimbatore. It was because of this reason, she had not joined duty. If an employee who served the department for twenty one long years is found absent, I would expect the immediate superior to make a personal verification in that regard. Obviously, the facts would have been within the knowledge of the immediate superior of the petitioner. Therefore,



terminating such an employee on the ground that she was unauthorisedly absent for more than six months, appears to be very harsh. The principle of proportionality can very well be applied. An employee who could not turn up for duty under the circumstances mentioned above can very well be allowed to exit honourably. In this view of the matter, the order impugned in this writ petition is set aside. The petitioner is deemed to have retired from service on 17.02.2013. I do not want to go into the aspect of quantifying the benefits that are payable to the petitioner. That shall be worked out as per the relevant norms. The respondents shall disburse the petitioner's terminal benefits payable to the petitioner within a period of ten weeks from the date of receipt of copy of this order. The question of paying interest does not arise.

7.This writ petition is allowed on these terms. No costs. Connected miscellaneous petition is closed.

12.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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G.R.SWAMINATHAN, J.

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