



WP(MD)No.15984 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2023**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.15984 of 2023

Bhuvaneswari

... Petitioner

/vs./

1.The Secretary to Government,
Department of Social Welfare,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

2.The Commissioner and Director of Social Welfare,
Department of Social Welfare,
Chennai-600 005.

3.The Director,
Department of Social Defence,
Old No.153, New No.300,
Purasawalkam High Road,
Kellys, Chennai-600 010.

4.The District Social Welfare Officer,
Collectorate Buildings,
Trichy-620 001.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to entrust the petitioner with some other office assistant work in the Social Welfare Department on account of her health condition other than the work of Cook, if not allow the petitioner to relieve her under voluntary retirement scheme, on the basis of the petitioner's representation dated 27.04.2023.

For Petitioner : M/s.P.Kalaiyarasi Bharathi

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed for a Mandamus, directing the respondents to entrust the petitioner with some other office assistant work in the Social Welfare Department on account of her health condition other than the work of Cook, if not allow the petitioner to relieve her under voluntary retirement scheme, on the basis of the petitioner's representation dated 27.04.2023.

2. By consent of both the parties, this Writ Petition is taken up for final disposal.



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3. The petitioner was appointed on temporary basis through the Employment Exchange as Assistant Cook on 06.03.1995 in the Government Orphanage Home. The second respondent in his proceedings dated 09.07.1997, had regularised the Helpers, who were appointed on temporary basis on consolidated pay of Rs.750/-. Thereafter, in the year 2006, the Government issued G.O.Ms.No.22 (Personnel and Administrative Reforms (F) Department) 28.02.2006, in which all the Government Departments were directed to regularise the services of employees on daily wage basis, who have completed more than ten years of service as on 01.01.2006. Thereafter, on 16.03.2009, the second respondent prepared the seniority list of Helpers as on 15.03.2009.

4. The petitioner submitted a representation on 07.01.2011 to the second respondent requesting them to regularise her service and provide time scale of pay. Since her representation was not considered, she filed a writ petition in W.P(MD)No.5063 of 2011 and the same was ordered on 28.04.2011. On the basis of which, her service was regularised on 18.02.2013. From the year 1995 onwards till 2016, she worked as a Helper in the Social Welfare Department and thereafter, from 2016 onwards, without any intimation, all of a sudden, she was transferred



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to the third respondent Department and she was designated as Helper and working under the Social Welfare Department from 1995 to 2016. But to her shock and surprise, from 2017 onwards, she was entrusted with the work of a Cook, but receiving the salary of a Helper.

5. In addition to that, she is continuously suffering with Diabetes, Hypertension and thereby doing the work of Cook had deteriorated her health day to day. Under such circumstances, not being able to do the work of the Cook, she made a representation on 27.04.2023 before the respondents seeking to relieve her under voluntary retirement scheme. However the same was not considered. Hence, the present Writ Petition has been filed.

6. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers



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under Article 226 of the Constitution of India.

7. It is made clear that without going into the merits of this case, the fourth respondent is directed to consider the representation of the petitioner dated 27.04.2023 within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. However, the learned Additional Government Pleader would submit that the petitioner has not submitted any details as to her ailments. As a result of which, the representation was kept in abeyance and the petitioner herein is directed to produce all the supporting medical documents before the fourth respondent within a period of twelve (2) weeks from the date of receipt of a copy of this order.

9. With the above said observation, this Writ petition stands disposed of. There shall be no order as to costs.

03.07.2023



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Index : Yes / No

Internet : Yes / No

NCC : Yes / No

BTR

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L.VICTORIA GOWRI, J.

BTR

Order made in
W.P.(MD)No.15984 of 2023

Dated:
03.07.2023