



W.P(MD).No.17988 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17988 of 2023

and

W.M.P(MD).Nos.15021 & 15023 of 2023

P.Radha
Panchayat Secretary (Under Dismissal)
S.S.Kottai Village Panchayat
Singampuneri Panchayat Union
S.S.Kottai
Sivagangai District

....Petitioner

Vs

1.The District Collector
Sivagangai District
Sivagangai

2.The Personnel Assistant to District Collector (Development)
Office of the Collectorate Campus
Sivagangai District

3.The Block Development Officer
Singampunari
Sivagangai District

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent vide his proceedings in Na.Ka.Q1/30498/2022 dated 11.01.2023 and the consequential impugned order passed by the second respondent vide his proceedings in



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Na.Ka.Q1/30498/2022 dated 15.05.2023 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner in service as Panchayat Secretary within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the order passed by the third respondent on 11.01.2023 wherein the petitioner was directed to show cause why she should not be terminated from service on the ground that she was not having the basic educational qualification at the time of her appointment.

2. The writ petitioner was appointed as a Panchayat Assistant on 20.11.2001. She passed SSLC exam in September 2010. The learned counsel appearing for the petitioner had contended that the petitioner had passed SSLC examination in September 2010 and she has been in service for the past 22 years and now she is aged 56 years. At this length of time, if an order of termination is passed, the petitioner would be put to great hardship.



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3.Per contra, the learned Additional Government Pleader appearing for the respondents had relied upon G.O.Ms.230 Rural Development (E5) Department, dated 15.10.1996 and contended that a pass of SSLC is mandatory for being appointed as Panchayat Assistant. However, the petitioner was not having the basic educational qualification on the date of her appointment in the year 2001. Hence, it was decided to terminate the writ petitioner and the impugned show cause notice was issued. Hence, he prayed for dismissal of the writ petition.

4.I have considered the submissions made on either side and perused the material records.

5.There is no dispute that the basic educational qualification for being appointed as a Panchayat Assistant in the year 2001 was a pass in SSLC examination. The petitioner was not having the said qualification and she passed the SSLC only in September 2010. Therefore, as rightly contended by the learned Additional Government Pleader, the petitioner was not having basic qualification on the date of her appointment. He had relied upon a judgment of the Hon'ble Supreme Court reported in **(2008) 7 SCC 153 (Pramod Kumar Vs. U.P.Secondary Education Services Commission and others)** to impress upon the Court that an appointment which is contrary to



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the statute/statutory rules would be void in law and hence, the same cannot be regularized.

6.However, the learned counsel appearing for the writ petitioner had replied upon the judgment of the Hon'ble Supreme Court reported in **(1990) 3 SCC 655 (District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and another Vs.M.Tripura Sundari Devi)** to impress upon the Court that where due to inadvertence, the original certificates were not properly verified at the time of appointment, but later, when the candidate secured the appropriate qualification, the said candidate need not be terminated, but her services may be regularized from the date of acquisition of the appropriate qualification.

7.Considering the fact that the petitioner is aged 56 years and she had also passed the basic educational qualification namely a pass in SSLC in September 2010 and she had put in 22 years of service, this Court is of the considered opinion that the order of termination would cause great hardship to the petitioner.

8.In view of the above said facts, the show cause notice impugned in the writ petition is quashed. However, the services of the writ petitioner



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between 20.11.2001 and September 2010, shall not be taken into account for any other promotion or other benefits except calculating the said period for pensionary benefits. Since the petitioner had worked as Panchayat Assistant and earned salary, the salary for the period between November 2001 and September 2010 shall not be recovered.

9. With the above said observations, the Writ Petition is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

09.10.2023.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

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R.VIJAYAKUMAR, J.

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