



W.P.(MD)No.11840 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11840 of 2018

R.Thangthai

... Petitioner

Vs.

1.The District Collector cum
Inspector of Panchayats,
Thoothukudi District,
Thoothukudi.

2.The Block Development Officer,
Village Panchayat,
Kayathar Panchayat Union,
Kayathar,
Thoothukudi District.

3.The President /The Special Officer,
Theethampatti Village Panchat,
Thoothukudi District.

4.Mr.M.Thangavel

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the second respondent herein made in his proceedings No.Thi3/2931/2013, dated 23.04.2018 and quash the same as unconstitutional and arbitrary and consequently direct the respondents to pay the arrears of salary to the petitioner to the tune of Rs.5,11,525/- for the period from January 2008 till December 2015 within the time stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For R1 and R3 : Mrs.K.Christy Theboral
Additional Government Pleader
For R2 : No appearance

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent dated 23.04.2018 and to quash the same and consequently direct the respondents to pay arrears of salary to the petitioner to the tune of Rs.5,11,525/- for the period from January 2008 till December 2015 within the time stipulated by this Court.



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2. The case of the petitioner is that she was appointed as Panchayat Clerk in the third respondent Village Panchayat in the year 2004. From the date of her appointment, she has been discharging her duty without any adverse remarks. While so, the third respondent has issued a charge memo on 08.11.2006, alleging that she has not maintained the accounts and records properly. Thereafter, she was dismissed from service on 02.12.2006. Challenging the same, the petitioner has filed a writ petition in W.P.(MD).No.1834 of 2007 before this Court and this Court, by order dated 15.11.2007, set aside the dismissal order passed by the third respondent and also granted liberty to proceed with the disciplinary action in accordance with law, after getting explanation from the petitioner for the charge memo dated 08.11.2006 and also directed the petitioner to submit her explanation within two weeks. Again she was removed from service. Challenging the same, she has filed an appeal before the second respondent and the second respondent by order dated 09.01.2009, directed the third respondent to allow the petitioner into service. However, the petitioner was



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not allowed to retain. Hence, the petitioner has given a representation in this regard and the said representation was not considered. Hence, the petitioner has filed writ petition in W.P.(MD).No.8969 of 2016 and this Court, by order dated 29.04.2016, directed the second respondent to consider the petitioner's representation and pass appropriate orders. However, the said representation was rejected on 23.12.2017. Again, the petitioner has filed a writ petition in W.P.(MD).No.1493 of 2018 and this Court by order dated 07.03.2018, remitted the matter back to the authority for fresh order. Pursuant to which, the present impugned order has been passed. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is entitled to receive salary from January 2008 till December 2015 to the tune of Rs.5,11,525/-, which was unauthorisedly denied by the second respondent, which is not sustainable one. Hence, he prayed for appropriate orders.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 3 would submit that though the petitioner is entitled to receive salary from January 2008 till December 2015, no proof was filed before the respondents. In the absence of any proof, the claim made by the petitioner is misconceived. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 3.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was employed as Panchayat Clerk and she was removed from service on 02.12.2006. Aggrieved by the said order of dismissal, the petitioner has filed a writ petition in W.P.(MD).No.1834 of 2007 before this Court and this Court, by order dated 15.11.2007, set aside the dismissal order passed by the third respondent and also granted liberty to proceed



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with the disciplinary action in accordance with law. Again, she was removed from service. Challenging the same, the petitioner has filed an appeal before the Block Development Officer (Village Panchayat), the second respondent herein and the second respondent by order dated 09.01.2009, directed the third respondent to allow the petitioner into service. However, she was not allowed to retain and hence, she made a representation to pay salary from January 2008 till December 2015 and the same was also not considered. Hence, the petitioner has filed writ petition in W.P.(MD).No.8969 of 2016 and this Court, by order dated 29.04.2016, directed the second respondent to consider the petitioner's representation and pass appropriate orders. However, the said representation was rejected on 23.12.2017. Again, the petitioner has filed a writ petition in W.P.(MD).No.1493 of 2018 and this Court by order dated 07.03.2018, remitted the matter back to the authority for fresh order. Pursuant to which, the present impugned order has been passed by the second respondent, denying the petitioner's claim on the ground that no proof was filed for her employment during the relevant period.



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7. In the absence of any proof, no affirmative direction can be issued. Hence, this Writ Petition is dismissed. No costs.

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NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv

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