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WP.No.1642 of 2023

In the High Court of Judicature at Madras

Dated : 24.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.1642 of 2023

B.Sulochana

...Petitioner

Vs

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The Director, Integrated
Child Development Project,
Tharamani, Chennai-113.

3.The District Project Officer,
Integrated Child Development
Project, Cuddalore District.
Cuddalore-1.

4.The Project Officer, Integrated
Child Development Project,
Mangalore Block, Cuddalore District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent dated 05.8.2017 made in Se.Mu.Na.Ka.No.1378/A1/2015, quash the same and consequently direct the respondents to permit the



WP.No.1642 of 2023

petitioner for voluntary retirement from the post of Anganwadi Worker and to pay all the monetary benefits inclusive of pension within a stipulated time.

For Petitioner : Mr.C.Prabakaran
For Respondents : Mr.P.Balathandayutham, SGP

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 05.8.2017 and for a consequential direction to the respondents to permit the petitioner to go on voluntary retirement from the post of Anganwadi Worker and to extend all the monetary and pension benefits to the petitioner.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is as follows :

(i) The petitioner joined the services as a Noon Meal Organizer/ Anganwadi Worker at Rama Natham Children Welfare Centre, Cuddalore District on 10.4.1991 pursuant to the orders passed by the District Social Welfare Officer dated 19.3.1991 and the Commissioner of the Mangalore Panchayat Union dated 09.4.1991. She was



WP.No.1642 of 2023

transferred from that place to Edaicheruvai Anganwadi Centre pursuant to the proceedings of the fourth respondent dated 21.8.2009.

(ii) As she was suffering from pain in both her knee joints and wanted to take treatment, she went on leave from 01.2.2015 to 30.3.2015 and joined duty on 31.3.2015 by producing relevant medical certificates. Further, as her health condition did not improve, the petitioner once again applied for leave from 01.4.2015 to 30.4.2015. The situation worsened and the petitioner was on continuous leave upto 25.9.2016. She also submitted all the necessary medical certificates in this regard.

(iii) In the meantime, the petitioner received a communication from the fourth respondent dated 06.1.2016 seeking for explanation from the petitioner for her unauthorized absence. The petitioner gave an explanation on 20.1.2016 along with all the medical records. Considering her health condition, the petitioner wanted to go on voluntary retirement. Accordingly, she sent a representation on 30.4.2016 requesting respondents 3 and 4 to permit her to go on voluntary retirement on medical grounds. Since it did not evoke any response, once again, she submitted another letter dated 10.5.2016 to the third respondent through the fourth respondent to allow her to go on voluntary retirement. However, she did not get any reply.



WEB COPY



WP.No.1642 of 2023



WP.No.1642 of 2023

(iv) Even thereafter, as nothing was forthcoming, the petitioner filed W.P.No.25745 of 2017 before this Court seeking for the issuance of a Writ of Mandamus to consider her application for voluntary retirement from the post of Anganwadi Worker. In the said writ petition, the fourth respondent filed a counter wherein, in paragraph 10, it has been stated as follows :

"It is further respectfully submitted that in the meantime, the petitioner, by a letter dated 10.5.2016, made request to the second respondent for allowing her to retire from service under voluntary retirement scheme on health grounds on the basis of G.O.Ms.No.32, Social Welfare and Nutritious Meal Programme (SW-7(1)) Department dated 30.4.2015. The third respondent submitted the same along with letter dated 28.5.2016 to the second respondent for taking proper action. In the meantime, the petitioner was terminated from service on 05.8.2017 by the first respondent in proceedings No.Se.Mu.Na.Ka.No.1378/A1/ 2015 on the ground that the petitioner failed to attend duty for more than one year and 10 months from 28.9.2015. The petitioner is not eligible for seeking voluntary retirement on health grounds since she has not submitted herself for Medical Board and she has not joined duty for more than one year and ten months."

(v) On going through the said counter affidavit filed in the said writ petition, the petitioner came to know that her services were terminated on 05.8.2017 by the first respondent.



WEB COPY



WP.No.1642 of 2023



WP.No.1642 of 2023

(vi) When the said writ petition came up for hearing on 20.12.2022, this Court granted liberty to the petitioner to challenge the order of termination dated 05.8.2017 and closed the same. Pursuant to that, the present writ petition has been filed before this Court with the aforesaid prayer.

4. The third respondent filed a counter affidavit to this writ petition, in which, he has taken a stand that the petitioner was unauthorizedly absent for nearly one year and 10 months, that therefore, in line with G.O.Ms.No.4 dated 09.1.1995 wherein it has been reiterated that if the Anganwadi Worker is absent to work for more than six months, that itself will be a ground to terminate her services, the petitioner was terminated from service, that attempts were made to serve notice on the petitioner in order to conduct inquiry and the whereabouts of the petitioner were not known, that left with no other option, the first respondent passed the impugned order dated 05.8.2017 terminating the petitioner from services and that in the light of this development, there was no occasion for the respondents to consider the request made by the petitioner for voluntary retirement. Ultimately, the third respondent sought for dismissal of the writ petition.



WP.No.1642 of 2023

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order passed by the first respondent.

6. The petitioner has been working as the Anganwadi Worker from the year 1991. She started facing serious health problems in the year 2015. The medical records that have been placed before this Court would show that the petitioner was suffering from osteoarthritis in both the knees and hip joints. Therefore, the petitioner absented herself continuously. Ultimately, she submitted a letter dated 10.5.2016 to the third respondent through the fourth respondent.

7. There is no dispute with regard to the fact that the petitioner had, in fact, submitted such a letter dated 10.5.2016 to the third respondent and the same has been mentioned in the counter affidavit to the earlier writ petition filed by the petitioner. It has been further mentioned in the counter filed in the earlier writ petition that she requested the third respondent to allow her to retire from service under the voluntary retirement scheme on health grounds in line with G.O.Ms.No.32 Social Welfare and Nutritious Meal Programme [SW-7(1)] Department dated 30.4.2015 and that the fourth respondent



WP.No.1642 of 2023

forwarded the same along with the letter dated 28.5.2016 to the third respondent for taking proper action. This was never followed up and ultimately, the impugned termination order was passed by the first respondent on 05.8.2017.

8. The relevant Government Order provides for the termination of services of an Anganwadi Worker, if she fails to attend duty for more than six months. In the considered view of this Court, just because power is available, that cannot be mechanically applied without considering the facts and circumstances of each case.

9. In the instant case, the petitioner has been working as the Anganwadi Worker from 1991 onwards. Unfortunately, she was getting old and osteoarthritis developed in both her knee joints. This ailment virtually prevents a person from moving around since it causes severe pain in both the knee joints. That is the reason as to why the petitioner submitted the letter dated 10.5.2016 seeking for voluntary retirement. The letter dated 10.5.2016 ought to have been considered by the respondents and the petitioner could have been permitted to go on voluntary retirement. Instead, the respondents have chosen to exercise their powers under the relevant Government Order and terminated the petitioner from the services. As a result,



WP.No.1642 of 2023

the services rendered by the petitioner from 1991 till 2015 completely get wiped off.

10. This is not a case involving moral turpitude. This is a clear case involving physical ailment that is being suffered by a lady, who was working as the Anganwadi Worker. Hence, the peculiar facts and circumstances of this case ought to have been considered and the letter dated 10.5.2016 submitted by the petitioner to the third respondent through the fourth respondent ought to have been considered positively before passing the impugned order of termination. When the letter dated 10.5.2016 is pending, the impugned order of termination was passed by the first respondent on 05.8.2017. Hence, this Court is inclined to interfere with the impugned order passed by the first respondent against the petitioner and to issue a direction to respondents 2 to 4 to act upon the letter dated 10.5.2016 submitted by the petitioner. There is a Government Order in G.O.Ms.No.32 dated 30.4.2015, which deals with the same.

11. In the light of the above discussions, the writ petition is allowed. The impugned order dated 05.8.2017 passed by the first respondent is hereby set aside. There shall be a direction to respondents 2 to 4 to act upon the letter dated 10.5.2016 submitted



WP.No.1642 of 2023

by the petitioner and permit her to go on voluntary retirement with effect from 01.6.2016. It is made clear that the petitioner is entitled to all attendant and service benefits and appropriate orders shall be passed in this regard within a period of six weeks from the date of receipt of a copy of this order. No costs.

24.9.2024

To

- 1.The District Collector, Cuddalore
District, Cuddalore.
- 2.The Director, Integrated
Child Development Project,
Tharamani, Chennai-113.
- 3.The District Project Officer,
Integrated Child Development
Project, Cuddalore District.
Cuddalore-1.
- 4.The Project Officer, Integrated
Child Development Project,
Mangalore Block, Cuddalore District.

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WP.No.1642 of 2023

N.ANAND VENKATESH,J

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WP.No.1642 of 2023

24.9.2024