



WP.No.4065 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.01.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.4065 of 2021

V.Parameswari

...

Petitioner

/vs/

Kumarapalayam Municipality,
Rep. by its Commissioner,
Kumarapalayam,
Namakkal District,
PIN 638 183.

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a WRIT OF MANDAMUS, directing the Respondents to pass orders on the representation of the petitioner dated 28.08.2019 for her reinstatement with continuity of service and other attendant benefits with effect from 21.05.1998 and re fixation of her salary and grant of consequential monetary benefits.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.P.Srinivas



ORDER

The petitioner has filed this writ petition seeking direction against the respondent to pass orders on the representation of the petitioner dated 28.08.2019 for her reinstatement with continuity of service and other attendant benefits with effect from 21.05.1998 and refixation of her salary and grant of consequential monetary benefits.

2. The petitioner has filed a labour dispute in I.D. No.992 of 1998. An award has been passed in her favour on 30.01.2003. By virtue of the said award, her removal was set aside and the respondent was directed to reinstate the petitioner, however, with no back wages but continuity of service and all other attendant benefits. The writ petition in W.P.No.499 of 2005 was filed by the petitioner, challenging the above-mentioned award, which was dismissed and the writ appeal filed, challenging the said order, in W.A.No.2065 of 2010 was also dismissed. Consequently, the petitioner was reinstated on 20.03.2012, but on completely different terms, and the award passed. Hence, this Writ petition.

3. Heard, Mr. G. Pugazhenthil learned counsel for the petitioner and Mr. R.P. Murugan Raja, learned government advocate for respondents 1 to 4 and perused the materials available on record.

4. Mr. G. Pugazhenthil, learned counsel for the petitioner submitted that the



petitioner has been reinstated as though she is a fresh employee without any continuity of service. While admitting this petition, this court has observed that the petitioner is empowered to file a petition under Section 29 of the Industrial Disputes Act, 1947, against the respondent for non-implementation of the award. A reliance was placed on the judgement of the Hon'ble Supreme Court in the cases of the *Life Insurance Corporation of India Vs. D.J.Bahadur and Others*, reported in **1980 AIR 2181** and **Rajkumar Gupta Vs. Governor, Delhi** reported in *1997 (1) LLJ 994*.

5. The award or settlement will no doubt continue to be in force until the award has been substituted by another award or settlement. The award passed in favour of the petitioner by the Labour Court in I.D. No.992 of 1998 has attained finality and it continues to be in force till today. If the award of the labour court is not obeyed, the government can also accord sanction and prosecute the commissioner if a complaint is made for violation of the order of the Labour Court.

6. The respondent, without being aware of the above judicial pronouncement and the binding nature of the award, had chosen to pass an order dated 20.03.2012 by inducting the petitioner as a new appointee. The



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representation given by the petitioner on 20.08.2019 has also not been considered so far. Since the respondent has already disobeyed the orders of this Court by denying continuity of service to the petitioner, he has invited the risk of contempt. It is up to the petitioner to initiate appropriate action if the respondents continue to disobey the award already passed.

7. In view of the above stated reasons, this writ petition is **disposed of**. The respondent is also directed to consider the representation of the petitioner and pass appropriate orders in light of the award already passed and also by taking into consideration the judicial pronouncements made in this regard and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

11.01.2024

Index : Yes /No
Internet : Yes/No
Speaking: Non speaking
jrs



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To
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R.N.MANJULA, J.

jrs

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