



WEB COPY



W.P.No.7084 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.7084 of 2020

and

W.M.P.Nos.8436 and 8437 of 2020

R.Rajamani

...Petitioner

Vs.

1. The District Collector,
Erode District,
Erode.

2. The Personal Assistant to the District Collector,
Erode District,
Erode.

3. The Block Development Officer,
Bavanisagar Panchayat Union,
Sathyamangalam Taluk,
Erode District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 20.10.2014 made under Reference No.27616/2012/PaA5 issued by the 2nd respondent in dismissing the petitioner, quash the same and consequently, direct the 2nd respondent to reinstate the petitioner in the post of Noon Meal Assistant Cook in the Panchayat Union Middle School Thoppampalayam, Bhavanisagar Block, Erode District.



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For Petitioner : Mr.A.E.Ravichandran

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate
for R1 to R3

ORDER

The instant Writ Petition has been filed challenging the order of dismissal dated 20.10.2014.

2.The learned counsel for the petitioner would submit that, the petitioner joined as Noon Meal Cook Assistant in the Panchayat Union Middle School, Thoppampalayam, Bavanisagar, Erode. While so, during 2012-2013, due to skin disease, she did not attend duty from 02.10.2012 to 07.02.2013. He would further submit that the petitioner being an illiterate person did not aware about the rules and therefore, did not submit the Leave Application. It is the further contention of the learned counsel for the petitioner that, no enquiry was conducted against the petitioner and that even the dismissal order was not served upon her and was obtained by her only through RTI Application. He would further submit that since the petitioner has been in service for more than 25 years, the sudden dismissal would very much impact on the terminal benefits and such a punishment is shockingly disproportionate.

<https://www.mhc.tn.gov.in/judis> 3. *Per contra*, the learned Government Advocate would contend that, the



petitioner herself admitted her guilt, however, she pleaded about her stress, skin allergy and her absence of knowledge about the procedures prevailed in the Department. Therefore, it is the contention of the learned Government Advocate that the non conducting of enquiry will make no difference in the present case. The learned Government Advocate would further submit that a show cause notice has been issued against the petitioner. Therefore, there is no merit in the present Writ Petition.

4.I have given my anxious consideration to either side submissions.

5.Though the learned counsel for the petitioner contended about the procedural lapses, while looking at the final order and the submissions made by the learned counsel for the petitioner, the petitioner herself admitted her unauthorized absence from 02.10.2012 to 07.02.2013. However, when the explanation was given to the respondents, she took a defence that the unauthorized absence is only because of her illness, skin allergies and the consequential stress. But the fact remains that the petitioner herself admitted the unauthorized absence.

6.However, it is the submissions of the learned counsel for the petitioner

that she has been in service for more than 25 years and she is an illiterate



woman and the salary from this post, is her only source of income for their livelihood. It is in this back ground, he would contend that the punishment is disproportionate to the gravity of the charges.

7.It is well settled principles of law that while exercising the power of the judicial view, this Court cannot go into the proportionality of the punishment and it should be left to the discretion of the Employer. However, taking into consideration of the petitioner's precarious position of having skin allergy at the relevant point of time, which was not at all disputed by the respondents and her long service for more than 25 years, would impel this Court to find out whether this issue was considered by the respondent. But, it appears that the same has not been considered by the respondents. It is well settled principles of law that whenever the maximum punishment was imposed by the Authority, they must state the reason as to why the said maximum punishment is imposed instead of other lesser punishment. On a perusal of the dismissal order, this Court could not find any such reason. Therefore, in view of the above peculiar circumstances, this Court deems it appropriate to interfere with the order of dismissal and to direct the respondents to pass fresh order, imposing appropriate punishment against the petitioner.

In the result, this Writ Petition is partly allowed, by setting aside the



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order of punishment dated 20.10.2014 and the matter is remitted back to the 3rd respondent to pass a fresh order of punishment in accordance with law, and after taking into consideration of the explanation of the petitioner. This exercise is directed to be completed within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

18.10.2024

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mps

To

1. The District Collector,
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C. KUMARAPPAN, J.

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