



W.P.No.10048 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18.03.2024
Pronounced on	03.04.2024

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

W.P.No.10048 of 2021

R. Parvathi ... Petitioner

Vs.

1. The Commissioner,
Pollachi Municipality,
Pollachi.

2. The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

3. The Secretary to Government,
State of Tamilnadu,
Municipal Administration,
Fort St. George,
Chennai-600 009.

...

Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a WRIT OF MANDAMUS to direct the respondents to pay the back wages from 23.11.1990 up to 25.09.2010 with continuity of service with all other attendant benefits.



W.P.No.10048 of 2021

For Petitioner : Mr.S.Elamurugan
For Respondents : Mr.B.Anand for R1
: Mr.T.Chezhiyan, AGP for RR2 &3

ORDER

Heard Mr.S.Elamurugan, learned Counsel for the petitioner and Mr.B.Anand, learned counsel for the 1st respondent and Mr.T.Chezhiyan, learned Additional Government Pleader for 2nd and 3rd respondents and perused the materials available on records.

2. A Writ of Mandamus has been filed by the petitioner to direct the respondents to pay the back wages from 23.11.1990 to 25.09.2010 with continuity of service with all other attendant benefits.

3. The petitioner has registered her name with educational qualifications with the Employment Exchange. Her name was sponsored for an interview held for the post of Class IV services at the 1st respondent office on 26.10.1990. After she attended the interview in the office of the first respondent, there was no response. The petitioner visited



W.P.No.10048 of 2021

the employment exchange office for renewal on 17.06.1993. Only at that time she came to know that she was selected for the post for which the interview was held on 26.10.1990 at the 1st respondent's office. On further enquiry, she came to know that one Parvathi, who is the wife of the councilor, impersonated her and joined duty in the place of the petitioner on 23.11.1990. The petitioner made a complaint; however, the first respondent did not send any reply. Hence, the petitioner has filed an application before the Tamil Nadu State Administrative Tribunal in O.A.No.555 of 1996 and the same was transferred to this Court and taken on file in W.P.No.26303 of 2006. By an order dated 30.04.2009 the said writ petition was allowed by holding that the petitioner's selection was spoiled due to the impersonation of the other Parvathi and her employment itself is illegal.

4. The said Parvathi, who was employed had filed an appeal before the Division Bench of this Court in W.A.No.45 of 2012 by challenging the order of writ petition and the same was dismissed on 15.03.2016. The Hon'ble Division Bench held that an impersonated person cannot claim



W.P.No.10048 of 2021

wages and the municipality is entitled to recover the amount from the impersonated person, Parvathi and ordered a proper investigation. Only after a long battle, the petitioner was given with an employment on 31.08.2010 and joined services on 03.09.2010.

5. Now the petitioner claims that she is entitled to join duty on 23.11.1990 itself, but only due to fraudulent activities and criminal intentions adopted by the 1st respondent municipality, the petitioner was deprived of her employment for nearly 20 years. It is submitted that the petitioner's entitlement to wages for the said period along with continuity of service cannot be lost for none of her fault. The petitioner sent a representation by raising the above claims on 22.07.2016 to the Commissioner of Pollachi Municipality, and a reply was issued to her on 22.08.2016. Since no order has been passed in favor of the petitioner, the petitioner has filed this writ petition.

6. It is a strange case where the petitioner got affected due to the impersonation committed by someone else, for stealing the job for which



W.P.No.10048 of 2021

the petitioner was selected. In fact, the result of the job for which the petitioner applied had been declared shortly after, the petitioner attended the interview. If the result of the petitioner's interview ought to have been sent to the petitioner's address, the petitioner should have been got the appointment order.

7. But a person who also had the name Parvathi crossed the route with her influence in the first respondent's municipality and managed to join the job, by misusing the similarity in the name.

8. The 1st respondent had joined the third person in the place of the petitioner without enquiring about the identity of selectee. In the earlier order obtained by the petitioner in WP.No.26303/2006, the appointment of another Parvathi was found to be fully irregular. So some underground game played behind the back had materialized the other 'Parvathi' to get appointed.



W.P.No.10048 of 2021

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9. Even though the petitioner had approached the tribunal in 1996 and won her case after it got transferred to this court and taken up as a writ, the petitioner could not enjoy the fruits offered after a delay of 20 years. In the earlier order passed in WP.No.26303/2006, it has been observed that the petitioner has been litigating since 1997 and she has to be given with suitable employment in any of the Class IV categories. The Writ Appeal in W.A.No.45 of 2012 filed by the other Parvathy challenging the above order has been dismissed and the municipality is entitled to recover the amount from the impersonate.

10. As per the Writ Appeal order, it is learnt that the impersonated Parvathi has not been paid with any wages subsequent to the orders of this Court. The other Parvathi has lost her services and the court has also observed that she is not entitled to wages due to her fraudulent action. So far as the first respondent is concerned, he has disbursed the salary to the impersonated till the year 2010. Though it is unfortunate for the petitioner to have lost her right to employment and its benefits for 20 years, she cannot get the back wages in view of not rendering her service to the first



W.P.No.10048 of 2021

respondent during that period, and the salary for the impersonated also stopped.

11. It is learnt that the impersonated person has not been paid with any wages, as the appeal filed by her was dismissed. The petitioner has lost her 20 years of service and the service benefits not because of any of her fault. At the same time, the respondent cannot be compelled to pay the wages from the date of entitlement of the petitioner's appointment, i.e., from the date of her selection to the post till the date on which she could actually join the service. Because it was the third party who has been getting the wages for all those years due to impersonation.

12. It is easier to state that the petitioner did not have any luck utilizing her appointment despite being selected in the interview. But that will not compensate the loss she had suffered for many years. However, it is not practically possible for the respondent to recover the wages from the person who had taken it by committing fraud. Because the impersonated person cannot have all the salary that she got all along for the last 20 years of her employment. The only benefit that can be done



W.P.No.10048 of 2021

would be to keep the service benefits of counting the services of the petitioner from the date on which the 3rd party impersonated and joined the service till the date of the retirement of the petitioner.

13. The above benefit will not confer any monetary benefit on the petitioner. However, it is safer to get her retirement and pensionary benefits. Since the benefit of leave encashment will be attached to the actual service rendered by the individual, the petitioner cannot be given with the benefit of leave encashment. In view of the peculiar situation involved in this case, I feel the relief will also be peculiar. Though the petitioner may not get the back wages, she is entitled to get the undue services of 20 years enjoyed by the impersonator, to her credit for the purpose of the retiral / terminal / pensionary benefits. However, the petitioner is not entitled to any pay revision on account of the service credits given to her retiral / terminal / pensionary benefits.



W.P.No.10048 of 2021

Accordingly, this Writ Petition is **disposed** and the respondents are

directed to consider this as a special case in the light of the right settled above and pass orders accordingly, within a period of eight weeks from the date of receipt of copy of this order. No costs.

03.04.2024

jrs

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking
Neutral Citation : Yes/No

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W.P.No.10048 of 2021

R.N.MANJULA, J.

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W.P.No.10048 of 2021

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