



W.P.(MD)No.8638 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8638 of 2024

and

WMP(MD)No.7904 of 2024

M.Chitra

.. Petitioner

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2.The Child Development Project Officer,
Devakottai Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to reinstate the petitioner in service by revoking the suspension order passed by the 1st respondent in his proceedings in Se.Mu.Na.Ka.No.



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843/A1/2023 dated 13.12.2023 and consequently to direct the respondents to disburse the petitioner's subsistence allowance with arrears, by considering the petitioner's representation dated 20.01.2024 within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr. S.Shanmugavel
Additional Government Pleader

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. Heard Mr.H.Mohammed Imran, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents.

3. This Writ Petition has been filed seeking a direction to the respondents to reinstate the petitioner in service by revoking the



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suspension order passed by the 1st respondent in his proceedings in Se.Mu.Na.Ka.No.843/A1/2023 dated 13.12.2023 and consequently to direct the respondents to disburse the petitioner's subsistence allowance with arrears, by considering the petitioner's representation dated 20.01.2024 within a time frame.

4. The petitioner was appointed as Mini Anganvadi Worker on 24.10.2018 and her appointment was duly approved by the 1st respondent vide his proceedings dated 24.10.2018. Suddenly the 1st respondent passed the impugned order of suspension dated 13.12.2023 alleging that the genuineness of the petitioner's SSLC certificate which she produced during her appointment was fake. Mr.H.Mohammed Imran, learned counsel for the petitioner submitted that despite the petitioner was kept under suspension from 13.12.2023 so far she was not paid any subsistence allowance. It is claimed that the subsistence allowance is fundamental rights of the petitioner and hence, the respondent should be directed to pay the subsistence allowance with arrears within a stipulated time.



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5. It is claimed by the respondent that on verification of the certificates, it is seen that the petitioner has produced bogus SSLC certificates and hence, she was placed under suspension. The order of suspension was issued on 13.12.2023. Mr.S.Shanmugavel, learned Additional Government Pleader for the respondent submitted that the petitioner's services have not been regularised and even in the above order it is made clear that she has been appointed as a temporary worker with a condition that her appointment will be terminated at any time if it is found that the certificates issued by her are bogus. There cannot be any quarrel on the terms and conditions of the order of appointment.

6. But however, it is claimed by the petitioner that the petitioner is a permanent employee who has been appointed as against the regular vacancy and hence as per the Rules of disciplinary proceedings, the petitioner should be sanctioned with the subsistence allowance. It is needless to state that if the suspension order is not



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revised, that will only result in a situation where an employee continues to be out of service, but will be paid with subsistence allowance.

7. The petitioner who was appointed in the year 2018 was suspended in the year 2023. Even though one of the terms of the employment would state that the petitioner's services will be terminated in case if the certificates are found to be bogus, such exercise has to be carried out within a reasonable period or much less within a period of three years continuous service within which two years is expected to be served for declaration. But the appointment is not declared as against the regular vacancy. Since the petitioner has been kept under suspension only in the year 2023 and not immediately after her appointment, the respondent is liable to pay the subsistence allowance to the petitioner. However, it is seen that the petitioner is not challenged the order of suspension. As it is subsisting for more than three months, it is objected by the learned Additional Government Pleader for the respondent that the subsistence



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allowance should not ordered to be paid.

8. It is true that the petitioner is intended to challenge the order of suspension while seeking an order for subsistence allowance. However, that will not preclude the respondents to revoke the suspension if it deems to be appropriate or pass any revision order to extend the suspension. Whatever may be the case, the petitioner's entitlement for subsistence allowance cannot be taken away.

9. In the light of the above discussion, this writ petition is **disposed of** with the following direction.

"The first respondent is directed to pass orders granting subsistence allowance to the petitioner and if necessary to pass any revised order either to extent the suspension order or revoking the same and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order."



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There shall be no order as to Costs. Consequently connected miscellaneous petition is closed.

05.04.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

PJL

To

1. The District Collector,
Sivagangai District,
Sivagangai.

2.The Child Development Project Officer,
Devakottai Taluk,
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R.N.MANJULA, J.

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