



WP(MD). No.12236 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12/06/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.12236 of 2024
and WMP(MD) No.10859 of 2024**

V.Bagyalakshmi

... Petitioner

Vs

1. The Principal Secretary To,
Government, Social Welfare and
Nutricious Meal Programme Department,
Secretariat,
Fort. St. George,
Chennai - 600 009..

2. The Director of Social Welfare,
Saidapet, Chennai - 600 015..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned notices dated 04.10.2024 and quash the same.

For Petitioner : Mr.C. Santhosh Kumar,
For Respondents : Mr.J.Ashok
Additional Government Pleader



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ORDER

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By consent the writ petition itself is taken up for final disposal.

2. Heard Mr.C.Santhosh Kumar, learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. The petitioner has challenged the impugned notices dated 10.04.2024 of the 2nd respondent.

4. The petitioner was appointed as Child Nutritious Instructor in the respondent department on 16.08.1982. Subsequently she was promoted to the post of Zonal Officer, Child Development Project Officer and Social Welfare Officer in the years 1997, 2012 and 2015 respectively. While so, when her retirement was due on 30.09.2017, she was issued with suspension order dated 28.09.2017. Hence, she filed WP(MD) No.9691/2018 challenging the said suspension, however, pending the said writ petition, she was issued with a charge memo dated 03.08.2018 levelling certain charges. Therefore, she has filed another writ petition in WP(MD) No.19144/2018 challenging the charge memo. While so, the respondents have issued another charge memo dated



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25.03.2019, which was also challenged by the petitioner in WP(MD) No. 11409/2019. All the above writ petitions were allowed on 13.11.2019.

Challenging the same, the respondents have filed appeals in WA(MD) Nos.1112 to 1114 of 2023 and the same are pending. At that stage, now the petitioner has been issued with an impugned communications dated 10.04.2024 in Na.Ka.Nos. 7149/2019 and 31869/2014 calling for an explanation from the petitioner, for the very same charges, which had already been set aside pursuant to the common order dated 13.11.2019.

5. For the sake of clarity, the operative portion of the order dated 13.11.2019 is extracted hereunder:

“W.P.(MD)No.9691 of 2018:-

12.The petitioner was suspended from service on 28.09.2017, i.e., two days before the date of retirement, which is contrary to G.O.(Ms)No.144, Personnel and Administrative Reforms (N) Department, dated 08.06.2007 and the order of this Court reported in 2014 (2) CWC 261 [supra] and 2017 (5) CTC 536 [supra].

W.P.(MD)Nos.19144 of 2018 and 11409 of 2019:-

13.The second respondent has issued charge memos dated 03.08.2018 and 25.03.2019 for the alleged incident that had occurred in the years 2015-2016 and 2016-2017 and has not given any reason for initiating departmental proceedings before the petitioner retired from service. The second respondent has not obtained sanction from the Government to



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initiate departmental proceedings after the retirement of the petitioner, which is mandatory provision under Rule 9(2)(b)(i) of the Tamil Nadu Pension Rules.

14. In view of the above observations, the impugned orders in all the Writ Petitions are liable to be set aside and accordingly, set aside and the Writ Petitions are allowed. The respondents are directed to settle all the eligible benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. In the order stated supra, the charge memos have been set aside and a direction was issued to the respondents to settle all the benefits to the petitioner. However, the respondents have turned back to square one and sent the impugned communications calling upon explanations from the petitioner by presuming that the charges already given to the petitioner are still active.

7. However, the learned Additional Government Pleader submitted that the respondents have already preferred appeals against the order dated 13.11.2019 and the impugned communications are simple communications calling upon explanations. It is further submitted that there is an order of stay in the said appeals for staying the operation of



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the order dated 13.11.2019 passed in WP(MD) No.19144/2018 batch.

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8. Even according to the representation of the respondents, the matter is subjudice and an order in the writ petition has already been passed in favour of the petitioners. The writ appeals have not been disposed by setting aside the order of the Single Judge. In such circumstances, the respondents shall not take advantage of the stay order and initiate action against the petitioner. Hence, I feel that the impugned communications dated 10.04.2024 are liable to be set aside.

9. In the result, the writ petition is allowed and the impugned communications dated 10.04.2024 are set aside and the respondents are directed to resume any action in this regard only after the outcome of the pending writ appeals in WA(MD) Nos.1112 to 1114 of 2024. No costs. Consequently connected Miscellaneous Petition is closed.

12.06.2024

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TO

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R.N.MANJULA,J

RR

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