



WP(MD) No.16508 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16508 of 2024
and WMP(MD)No.14294 of 2024

Sarala

.. Petitioner

Vs.

1.The Director,
Adhi Diravidar and Tribal Welfare Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

2. The District Adhi Diravidar and Tribal Welfare Officer,
O/o.District Adhi Diravidar and Tribal Welfare Officer,
Collectorate,
Virudhunagar District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Na.ka.T2/5577/2023, dated 24.01.2024 and quash the same as arbitrary, illegal and against the principles of natural justice and consequently direct the respondents to



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give monetary and service benefits to the petitioner for the period between 19.04.2018 and 31.03.2021.

For Petitioner : Mr.S.Krishnan

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard Mr.S.Krishnan, learned counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this writ petition for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent in his proceedings in Na.ka.T2/5577/2023, dated 24.01.2024 and consequently direct the respondents to give monetary and service benefits to the petitioner for the period between 19.04.2018 and 31.03.2021.



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3. The petitioner was serving as a Watchwoman in the Girls Adhi Diravidar and Tribal Welfare Hostel, Sivakasi, Virudhuangar District. At that time, the petitioner was issued with transfer order dated 06.04.2018 and the same was challenged by the petitioner in W.P(MD)No.8585 of 2018. The said writ petition was allowed by quashing the order of transfer. It is submitted by the learned counsel for the petitioner that during the pendency of the writ petition, there was an order of stay of the operation of the impugned transfer order dated 06.04.2018.

4. On perusal of the records, it is seen that the said order has been granted on 19.04.2018 staying the operation of the impugned order from 19.04.2018 till the disposal of the writ petition. The said writ petition got disposed on 16.03.2021. The petitioner who remained out of service from 19.04.2018 to 16.03.2021 has now challenged the order dated 24.01.2024 in which the period from 24.05.2018 to 18.08.2021 is considered as 'No Work, No Pay'.

5. Further the stay order would only mean not to give operation to the transfer order and that would go without saying that the petitioner



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should be allowed to continue in her earlier post where she was working before issuing transfer order. But it is seen that another person has been appointed in the said place and hence, it is not possible to the authorities to accommodate the petitioner in the same place. Even the petitioner has brought that to the notice of this Court and got appropriate order to direct the respondents to pass orders for reinstating her into service.

6. The petitioner has not been vigilant to see her service not affected due to the pending writ petition and prefer to be out of service without urging for an early orders. The respondents atleast could have got clarification from the Court stating that even before the interim order, the transfer of the other person has been given effect and the other person has joined in the place of the petitioner. The petitioner remained out of service at her own risk. Even by joining in the transferred post, the petitioner could still have conducted the writ petition and nothing would have prevented her. Hence, I do not feel any justification to consider the out of service period of the petitioner to be treated as duty period. However, due to the pending Court proceedings, the respondents shall explore the possibilities of allowing the said period to be



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considered as any eligible leave period and pass orders if such a possibility is feasible.

7. With this observation, this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
PJL

To

1.The Director,
Adhi Diravidar and Tribal Welfare Department,
Ezhilagam, Chepauk,
Chennai- 600 005.

2. The District Adhi Diravidar and Tribal Welfare Officer,
O/o.District Adhi Diravidar and Tribal Welfare Officer,
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R.N.MANJULA, J.

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