



W.P(MD)No.17800 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.06.2024

CORAM :

**THE HON'BLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

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M.Shyedrabiya

... Petitioner

vs.

1. The Registrar General,
High Court of Madras,
Chennai-600104.

2. The Principal District Judge,
Theni District,
Theni.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to reinstate the service of the petitioner as Temporary Computer Operator with effect from 01.02.2023 on par with her batchmates by considering her representation dated 26.06.2023 with all attendances and monetary benefits thereof.

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.N.Tamilmani



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ORDER

R.MAHADEVAN, A.C.J.
AND
G.R.SWAMINATHAN, J.

Heard both sides.

2. The writ petitioner was temporarily appointed as a Computer Operator and posted to act as such in the Principal District Court, Theni. She was appointed under the destitute widow quota. The petitioner joined duty on 04.02.2019. The petitioner was working in that post till 23.01.2023 and she was not re-engaged thereafter. The petitioner's grievance is that she was a part of the batch of six appointees and while others were given re-posting orders, the petitioner was not re-engaged. No reason was given for denial of re-appointment. In this background, the present writ petition has been filed for reinstatement with all attendant and monetary benefits.

3. The learned counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition. He would point out that the petitioner is fully qualified and that she belongs to Backward Class and that her husband had passed away. The petitioner has been deprived of her only source of income. The



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learned counsel also relied on a few case laws. He called upon this Court to grant relief as prayed for.

4. The 2nd respondent has filed a detailed counter affidavit. Learned counsel for the respondents took us through its contents. He submitted that the action taken by the 2nd respondent was well within the relevant service rules and that interference is not warranted. He called upon this Court to dismiss the writ petition.

5. We carefully considered the rival contentions and went through the materials on record.

6. The petitioner was appointed vide order dated 02.02.2019 by the Principal District Judge, Theni, along with five others. The appointment order reads that it is purely temporary and that the appointees are liable to be terminated from service at any time without prior notice. The proceedings of the Principal District Judge, Theni, dated 23.01.2023 refers to Rule 16(a)(i) of the Tamil Nadu Judicial Ministerial Service Rules and Rule 10(2)(iii) of the Tamil Nadu State and Subordinate Service Rules. They read as follows:



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"Rule 16(a)(i) : Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of the service and there would be undue delay in making such appointment in accordance with these rules, the appointing authority may temporarily appoint a person, otherwise than in accordance with these rules.

(e)(i) A person appointed under sub-rule (a), (b) or (d) to a post borne on the cadre of the service shall not be regarded as a probationer or be entitled by reason only of such appointment to any preferential claim to future appointment, the services of such a person in the post shall be liable to be terminated by the appointing authority at any time without notice and without any reason being assigned."

"Rule 10(2)(iii) : A person appointed under clause (i) shall be replaced as soon as possible by a member of a service or an approved candidate qualified to hold the post under the rules, and in any case, he shall not be continued for a period of more than one year from the date of his temporary appointment."

7. In view of the statutory mandate, the six temporary Computer Operators were ousted from service with effect from 23.01.2023. The petitioner was one of them. It is true that on 01.02.2023, the other five Computer Operators were re-appointed, whereas, the petitioner was not given the benefit of re-appointment.

8. The 2nd respondent had not passed any separate order of termination or dismissal in respect of the petitioner. The ousting order was passed in view of the statutory provision. No stigma has been cast



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on the petitioner. Since the petitioner had claimed that she was sincere and devoted to service and there were no adverse remarks during her tenure, the 2nd respondent in his counter affidavit has been compelled to traverse the same. The Principal District Judge, Theni, in the counter affidavit has made the following averments:

"5) I further submit that the petitioner joined duty on 04.02.2019 and she was ousted from service every year and reinstated from 04.02.2019 to 23.01.2023. However, I strongly deny the very fact claimed by the Petitioner that she is sincere, devoted to service and had a good character and conduct with no adverse remarks during her tenure. There were many oral complaints on a regular basis that were raised against the Petitioner for having frequent altercations in with Senior Staff members and at some instance with the Judicial Officers. The Petitioner was neither submissive nor sincere with her Job. The Petitioner was learnt to have aggressive approach with the Senior staff when her support was required for e-filing. The Petitioners' nature of work requires her to complete entry of filing cases in CIS application for all the Courts in the Combined Court building and to return the Case bundle to the Court concerned after tracking the Filing number in the Bundle. This work is undertaken as a centralized process and involves to and fro movement of case bundles between the centralized counter and the courts. Throughout the tenure, the Petitioner was always reported behaving in a rude manner and always delayed the work which has adverse ramifications on other court works. Further, the Petitioner even denied to make CIS filing for the Sub court, Theni as the court had heavy average daily filing. I further submit that, the Petitioner was not the sole personnel to do this filing process but was accompanied by one more Computer Operator to share the work. I submit that before I took charge as the Principal District Judge, Theni, due to heavy filing of Sub Court, Theni, the petitioner had denied to make entries of filing related to the Sub Court, Theni in the centralized filing counter functioning at the Combined Court Complex, Theni with the support of some ministerial staff members. Further on her own volition without informing the Chief



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Administrative Officer, the Petitioner neglected to accept bundles from Sub Court, Theni and rather insisted the Sub court, Theni Personnel to make the CIS entries. This act of the petitioner is a daring threat to the hierarchical structure of the Judiciary and has detrimental effect on the Decorum that being maintained in Judiciary till date. Once I took charge as Principal District Judge, Theni, I personally inspected their work and found this as a process deviation and strictly instructed the Petitioner to do the CIS entry for all the courts including the Sub court, Theni. This is one such example that clearly says that the Petitioner was not doing her Job properly instead had her own whims and fancies towards accepting and denying a Job. Apart from this, the Petitioner during her tenure when given a task was reluctant in accepting any other duties other than CIS entries. I humbly submit that, the duties and responsibilities of the Computer operator is not listed or defined till date. Further the visiting police officials and public litigants also had the worst experience while approaching her for queries at the desk and the petitioner constantly caused issues with all the other staff members and created an unwelcome atmosphere that made the petitioner's situation considerably worse. Hence the petitioner was deputed to attend duty in the Additional District and Sessions Court, Periyakullam. In an attempt to avert any unforeseen situation in the work place and with an intention to warn her, I made this deputation considering her unwelcome attitude shown towards the work and ever deteriorating interpersonal relationship with Senior Colleagues.

6) Further I submit that at another instance, while the Chief Judicial Magistrate, Theni and the Secretary, District Legal Services Authority, Theni visited the Combined Court Complex at Periyakulam for inspecting the Charge Sheet pending for taken on file and FIR updation in the CIS, they made certain queries to the Petitioner as she was at that time was transferred and posted to work as Computer operator at Periyakulam. The above said Judges and the Sub Judge, Periyakulam reported to me that during the inspection they were unable to get the reply from the Petitioner and much to their chagrin the Petitioner was rude and unprofessional while replying. Further during their stay at the campus they found her to be not in her seat for a long period of time during the office working hours in contra to her repeated complaints that she is overloaded with work. With regard to the



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insubordination of the petitioner, I received oral complaints from other Judicial Officers functioning in Theni District. The Petitioner was ousted for the above stated reasons. All her activities were completely against the decorum of the Court work and the complaints were raised by all sections of the Theni District Judiciary and I personally felt her attitude is putting her and others at risk. There is no truth in the statement of the petitioner that during her tenure her conduct is unblemished and impeccable. Instead, the petitioner had shown unprofessional behavior in the campus, callousness towards Litigant and the Visiting Officials, unapproachable by the coworkers and apathetic to the assigned work and insubordinate to the Higher ups."

9. The Principal District Judge, Theni, was the appointing authority. The deponent of the counter affidavit has no animosity or malice against the petitioner.

10. The whole action of the 2nd respondent is in consonance with the statutory rule. After ousting the temporary appointees, the appointing authority had a choice before him-whether to re-engage them or not. The appointing authority was of the view that re-engaging the petitioner will not be in the best interest of the administration. Hence, he decided not to re-engage the petitioner. The petitioner had no right to be re-engaged. Hence, we cannot fault the 2nd respondent. The petitioner cannot argue that in view of the stand taken in the counter affidavit, her ouster has acquired a punitive colour.



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11. We cannot countenance such contention, because, it was the petitioner who invited such response from the 2nd respondent. The ousting order passed by the 2nd respondent does not cast any stigma on the petitioner. The petitioner could have left the issue at that and could have applied for appointment as and when any fresh notification is issued. Instead of doing so, the petitioner came before this Court with certain assertions. The 2nd respondent was obliged to meet those claims. It is well settled that an order cannot be improved by setting out justifications in the counter affidavit. Likewise, the action of the authority cannot become vulnerable by the pleadings set out in the counter affidavit in response to the claims made in the petitioner's affidavit.

12. We are satisfied that the 2nd respondent has acted in a bona fide manner. We find no merit in the writ petition. The Writ Petition is dismissed. No costs.

[R.M.D., A.C.J.] & [G.R.S., J.]
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Index : Yes / No
Neutral Citation : Yes / No
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