



W.A.(MD)No.1114 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.A.(MD)No.1114 of 2024

and

C.M.P.(MD)No.8470 of 2024

1.The Director of Integrated Child Welfare Department,
Pammal Nallathambi Street,
Periyar Nagar, Tharamani, Chennai-113.

2.The District Programme Officer,
The Integrated Child Welfare Service,
District Level Officer's Complex Block-2,
Theni, Theni District.

3.The Child Welfare Program Officer,
Theni Town, Theni District.

... Appellants

-Vs-

Vijayalakshmi

... Respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 12.06.2023 made in W.P.(MD)No.7732 of 2023 on the file of this Court.



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For Appellants : Mr.S.Shaji Bino,
Special Government Pleader
For Respondent : Mr.J.Senthil Kumaraiah

JUDGMENT

[Judgment of the Court was delivered by *R.SURESH KUMAR, J.*]

This Writ Appeal has been directed against the order dated 12.06.2023 made in W.P.(MD)No.7732 of 2023.

2.The respondent had been working at the appellant Department from 01.08.1991. During the year 2013, she suffered with brain tumour. Therefore, she could not attend the office and she had absented for more than six months, as she had to take continuous treatment. Considering the said long absence, the appellant Department had taken action against her and terminated her from service, by order dated 19.08.2013. Challenging the same, the said Writ Petition had been filed, of course, belatedly in the year 2023.

3.Normally, the Court will not entertain such belated Writ Petition in service matters. However, taking note of the physical condition of the respondent / writ petitioner, as she suffered with the said disease and because of



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which, she was not able to attend office and at the hands of the appellants also, she has suffered with the order of dismissal, by order dated 19.08.2013, the learned Single Judge has concluded that the termination order dated 19.08.2013 can be converted into retirement, that means compulsory retirement, so that the respondent / writ petitioner would avail some retirement and pensionary benefits in accordance with law. That is how the Writ Petition was disposed of by the learned Single Judge through the order impugned herein.

4.Heard the learned Special Government Pleader appearing for the appellants, who would submit that insofar as the continuous absence of more than six months is concerned, it is an admitted fact. Therefore, the employer had no other option except to terminate the service of the respondent / writ petitioner.

5.Once the service is terminated by the order dated 19.08.2013, the respondent / writ petitioner is not entitled for any pensionary and retirement benefits. Insofar as the sympathy, that has been shown or equity, that influenced the mind of the Writ Court, is concerned, according to the learned Special Government Pleader, that would not allow the respondent to claim the benefit of retirement and pensionary benefits by converting the punishment of termination given on 19.08.2013 into compulsory retirement, unless and until the punishment



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awarded by the employer shocks the conscious of the Court. Therefore, such kind of the approach of the Writ Court through the impugned order cannot be sustained, he contended.

6.We are not impressed with the submission made by the learned Special Government Pleader for the simple reason that the learned Single Judge has recorded what kind of disease, under which the respondent / writ petitioner employee suffered and if such disease is affected to any person, he will not be in a position to continue his job. When this kind of issues are referred to the employer, normally, under the rule, medical invalidation order alone would be passed. Here, in the present case, the appellant Department has initiated disciplinary action by terminating the respondent employee. By thus, the retirement as well as pensionary benefits, for which, she is otherwise entitled to, has been denied.

7.If a person is suffered with a hard disease and because of which, if she is not able to discharge her duties by attending office, normally, medical invalidation would be provided or some sympathy would be shown on the basis of equity.



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8. Here, in the case on hand, the appellant Department has straightaway terminated the respondent unmindful of the long service rendered by the respondent employee for more than 22 years. By the said action, the respondent / writ petitioner would suffer further, as she would go without getting any benefits.

9. Therefore, in the given circumstances being one of the peculiar case in view of the serious disease, under which she was affected, the respondent / writ petitioner certainly would be entitled to get atleast minimum support by way of minimum pensionary and retirement benefits, for which, unless the punishment of removal of service is modified as compulsory retirement, she could be entitled to. Hence, the approach and the conclusion reached by the learned Single Judge through the order impugned cannot be said to be the erroneous one. Therefore, we are not inclined to entertain this Writ Appeal.

10. Resultantly, this Writ Appeal stands dismissed. However, there shall be a direction to the appellant Department to consider the respondent / writ petitioner as a compulsory retired person with effect from 19.08.2013 and accordingly, her retirement as well as pensionary benefits be calculated and paid by the appellant Department as early as possible, preferably, within a period of



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three months from the date of receipt of a copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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