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W.P. No.4834 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4834 of 2015

V.Kannagi

... Petitioner

Vs.

1.The Director of Government Examination,
College Road,
Chennai – 600006.

2.The Regional Deputy Director,
Government Examination,
Cuddalore – 607 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for records from the 2nd respondent relating to the order dated 07.09.2012 bearing reference No. Na.Ka.001586/A1/2012 terminating the petitioner services and quash the same as illegal, arbitrary, malafide, vindictive and contrary to the principles of natural justice and consequently direct the respondents 1 and 2 to reinstate the petitioner back in service as a regular employee together with backwages, continuity of service and all other attendant/service benefits which the petitioner would have been entitled too/got had she not been terminated from service.



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For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

The brief facts that are relevant for disposal of this writ petition are as under:

It is the case of the petitioner that she was appointed as Section Writer, on being sponsored by the concerned Employment Exchange along with certain others and joined service on 01.02.1996 and continued in the said post for more than 10 years. As the services of the petitioner were not regularized, the petitioner, along with 8 others approached this Court on an earlier occasion by filing W.P.No.11097 of 2012. This Court, after having considered the claim of the petitioner and others, allowed the said writ petition by an order dated 05.07.2012 directing the respondents therein to regularize the services of the petitioner and others, on completion of 10 years of service with time scale of pay, and the arrears of salary, payable to the petitioner and others, pursuant to their regularization were also directed to be paid to them within a period of 4 weeks from the date of regularization of their services. The operative portion of the said order reads as under:



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“8.Applying the above said orders passed by this Court to the facts of the present case, the writ petition is allowed with direction to the respondents to regularise the services of the petitioners on their completion of ten years of service with time scale of pay. The regularisation orders are directed to be passed by the respondents within a period of three months from the date of receipt of a copy of this order. The arrears of salary, payable to the petitioners, pursuant to their regularisation, shall be paid to them within a period of four weeks therefrom. No costs. Consequently, connected miscellaneous petition is closed.”

2. However, it was thereafter, the petitioner was subjected to criminal proceedings by the Vigilance and Anti-corruption Department in Crime No.9 of 2012, which was registered on 07.09.2012 against the petitioner and in view of the said registration of the crime against the petitioner, the services of the petitioner were terminated by the 2nd respondent through proceedings dated 07.09.2012. It is aggrieved by the said proceedings the petitioner approached this Court by filing the present writ petition.

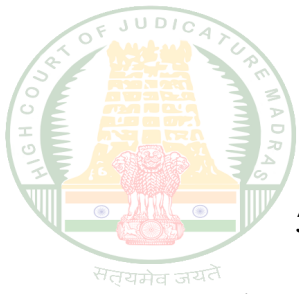
3. During the pendency of the present writ petition, a criminal case that was registered against the petitioner vide Crime No.9 of 2012 was taken on record as Special Case No.5 of 2013 by the Court of Chief Judicial



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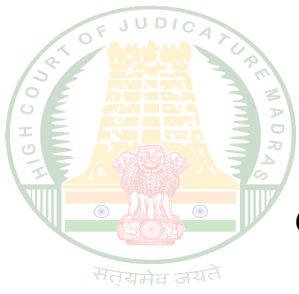
Magistrate/Special Judge, Cuddalore, and the said crime ended in acquittal of the petitioner by judgment dated 10.01.2025. Further, a perusal of the said judgment also discloses that the very incident of alleged misconduct against the petitioner was found to be false. Thus, the petitioner was honorably acquitted in the Special Case.No.5 of 2013.

4. As already noted above, the impugned proceedings dated 07.09.2012 was issued solely on the ground that the petitioner was involved in Crime No.9 of 2012, based on the report issued by the Vigilance and Anti-corruption Department Department. Except for the involvement of the petitioner in the Vigilance and Anti-corruption case, there is no other reason assigned in the impugned order. As the implication of the petitioner in the said crime is now found to be not sustainable by virtue of the honorable acquittal granted in favour of the petitioner in the judgment dated 10.01.2025 in Special Case.No.5 of 2013, the impugned order lost its basis and the same cannot be allowed to stand.



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5. As already noted above, the petitioner has got the benefit of order passed by this Court in W.P.No.11097 of 2012 dated 05.07.2012 filed by her along with 8 others. By virtue of the said order, the services of the petitioner were directed to be regularized from the date on which the petitioner completed 10 years of service, and arrears of salary were also directed to be paid to the petitioner. All the other 8 petitioners who joined the petitioner in W.P.No.11097 of 2012 have already been extended the benefit of the said order dated 05.07.2012, and accordingly, the Government issued orders in G.O.(2D).No.19, School Education (V1) Department, dated 18.04.2013, regularizing the services of the 8 petitioners from the date on which they have completed 10 years of service, and they are also stated to have been paid arrears of salary in terms of the order dated 05.06.2012 passed by this Court. But the petitioner is deprived of availing the benefit of the said order dated 05.07.2012 passed by this Court only because of the impugned order dated 07.09.2012 passed by the 2nd respondent against the petitioner terminating her services on the implication of the petitioner in criminal proceedings.



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6. As already noted above, but for the impugned order and criminal proceedings, the petitioner would have availed the benefit of the order passed by this Court on par with other petitioners therein. As the impugned order is found to be wholly unsustainable and the petitioner was also honorably acquitted in Special Case.No.5 of 2013 by judgment dated 10.01.2025, this Court is of the considered view that the petitioner cannot be deprived of the benefit of the order dated 05.07.2012 passed by this Court in W.P.No.11097 of 2012 on par with other 8 petitioners in the said writ petition.

7. In the light of the above, the impugned order dated 07.09.2012 is hereby quashed and the respondents are directed to regularize the services of the petitioner on par with other petitioners as issued in G.O.(2D).No.19, dated 18.04.2013 as expeditiously possible at any rate within a period of eight (8) weeks from the date of receipt of a copy of this order. Further, the petitioner shall be entitled for arrears of salary from the date of completion of 10 years of service, as was paid to the other 8 petitioners till 07.09.2012. The petitioner is also entitled for counting of her entire service on par with other 8 petitioners for all purposes except for back wages, as the petitioner has not



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worked for all these years. However, the petitioner shall be entitled to notional fixation of pay and counting of the said services for all purposes and the contributions if any to be paid by the petitioner, either towards CPS or any other fund, all such amounts shall be paid by the respondent for the entire period during which the petitioner was kept out of service.

8. Accordingly, the writ petition is allowed to the extent as indicated above. The connected miscellaneous petitions, if any, shall stand closed. No costs.

30.01.2025

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

1.The Director of Government Examination,
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