



W.A.(MD)No.1086 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1086 of 2020
and
C.M.P.(MD)No.5915 of 2020**

- 1.The Director of School Education,
D.P.I Campus, Chennai - 6.
 - 2.The District Education Officer,
Madurai District, Madurai - 2.
 - 3.The Headmistress,
Government Girls High School,
Alanganallur, Madurai District.
 - 4.The Secretary to Government of Tamil Nadu,
Education Department,
Secretariat, Chennai.
- ... Appellants
- Vs.
- V.Saraswathi
- ... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.14224 of 2014 dated 31.10.2020 on the file of this Court.



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For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondent : Mr.S.Govindan

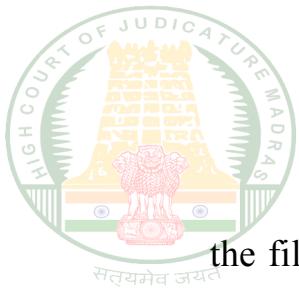
JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The department is on appeal challenging the order dated 31.10.2020 passed by the learned Single Judge in W.P.(MD)No.14224 of 2014 filed by the respondent herein.

3.The respondent herein was appointed as part-time sweeper in Government Girls Higher Secondary School, Alanganallur on 06.12.1995. She was appointed as full-time watchman under Rule 10a(1) with effect from 04.12.2000. Subsequently, her appointment was cancelled and she was reverted to the post of part-time sweeper. Challenging the same, the writ petitioner filed O.A.No.3548 of 2001. Interim stay was granted. The said O.A. was subsequently transferred to

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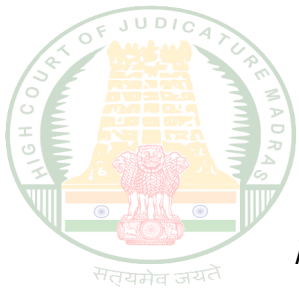


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the file of the High Court and renumbered as W.P.No.178 of 2007. The writ petition was allowed vide order dated 08.02.2012 and the reversion order was set aside. In the meanwhile, the writ petitioner was on unauthorized absence for close to three years from 2008 to 2011.

4.It is relevant to note that when W.P.No.178 of 2007 was allowed, liberty was given to the authorities to pass order afresh in accordance with law after giving opportunity of hearing to the writ petitioner. However, the authorities did not appear to have acted in terms of the said liberty granted by this Court. This forced the writ petitioner to file one more writ petition in W.P.(MD)No.5193 of 2013 seeking reinstatement. The said writ petition was disposed of on 06.03.2014 in the following terms:-

“4.It is seen that the petitioner had approached this Court earlier in W.P.(MD)No.178 of 2007 challenging the order of the reversion passed by the District Educational Officer, Medurai, dated 09.04.2001. This Court, by an order dated 08.02.2012, allowed the said writ petition on the only ground that the said order of reversion came to be passed in violation of principle of natural justice. Now the petitioner has come before this Court seeking reinstatement of



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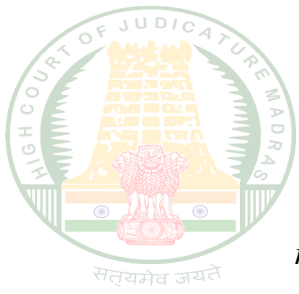
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her service by complaining that she was terminated orally. On the other hand, the counter affidavit filed by the second respondent states that the petitioner stayed away from duty with effect from 08.01.2008 onwards without prior notice and however, the petitioner's request for giving appointment would be considered once she makes the request through the Headmistress of Government Girls Higher Secondary School, Alanganallur. When that being the stand taken by the second respondent in the counter affidavit, this Court need not go into other aspects on merits except issuing the following orders:-

(i) The petitioner is directed to make representation through the Headmistress of Government Girls Higher Secondary School, Alanganallur, seeking appointment/reinstatement and such representation shall be made by the petitioner within two weeks from the date of receipt of a copy of this order.

(ii) Once such representation is made by the petitioner within the time stipulated as stated supra, the concerned Headmaster of the School is directed to forward the said representation to the second respondent within a period of one week from the date of receipt of such representation.

(iii) Once the representation sent by the petitioner and forwarded by the Headmaster is received by the second respondent, the same shall be considered and decided on merits end in accordance with law, within a period of six weeks thereafter. It is



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made clear that before passing any order on the representation of the petitioner, she would be heard in person also.

With the above directions, the Writ Petition is disposed of costs. Consequently, connected Miscellaneous Petition is closed.”

Pursuant to the said direction, the impugned proceedings dated 13.06.2014 came to be issued by the District Educational Officer, Madurai. The District Educational Officer, Madurai summarily rejected the writ petitioner's request for reinstatement. Questioning the same, W.P.(MD)No.14224 of 2014 came to be filed. The said writ petition was disposed of by the learned Single Judge in the following terms:-

“8.It is not in dispute that G.O.Ms.No.1046, dated 13.11.1987, was already set aside by the Tamil Nadu Administrative Tribunal as unconstitutional in O.A.No.1120 of 1989, etc. batch vide order dated 21.10.1999 and the Government had also amended the provision imposing the punishment of removal alone in the case of government servant absent for more than one year and directed to impose lesser punishment after conducting enquiry and after coming to the conclusion as to whether the absence of the petitioner was wilful or not. In this case, the absence of the petitioner was only on medical grounds. As the absence of the petitioner was on compelling circumstances under which it was not possible for



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her to report or perform duty, it cannot be held to be wilful. The second respondent has passed the impugned order, without conducting any enquiry with regard to the medical certificate produced by the petitioner. Termination of the petitioner without conducting any enquiry is illegal. Though the petitioner was ready to work from 01.10.2011, it was not considered by the respondents and hence, it is about nine years the petitioner is out of employment. However, it is seen that the petitioner herself has given a letter requesting to treat the period of her absence as leave period.

9. Considering the facts and circumstances of the case and also considering the injustice done to the petitioner, this Court is of the view that it would be appropriate to order reinstatement of the petitioner without any backwages for the period of her non employment, but with continuity of service. As the service of the petitioner has to be regularised, this Court suo motu impleads the concerned authority ie., the Secretary of the Government of Tamil Nadu, Education Department, Secretariat, Chennai, as the 4th respondent in this Writ Petition. The learned Special Government Pleader also accepts notice for the newly impleaded respondent.

10. In view of the above, the impugned order dated 13.06.2014 is set aside. The respondents are directed to regularize the service of the petitioner as Watchman from the date of her joining as Watchman ie.. from 04.12.2000 and



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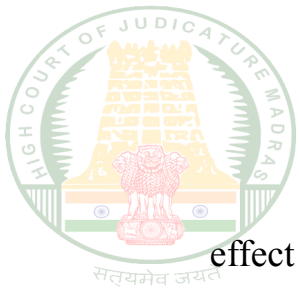
reinstate her as Watchman with continuity of service but without backwages for the period of her non employment. The respondents are directed to fix the pay of the petitioner as Watchman from 04.12.2000 and give salary till she had given her leave application, after deducting the salary given to her in the post of Part Time Sweeper. The above said exercise shall be completed on or before 21.02.2020.

11.The petitioner may approach the second and third respondents with a copy of this order forthwith for early compliance of this order.”

Aggrieved by the same, this writ appeal has been filed.

5.When the writ appeal was taken up for final disposal, the learned Special Government Pleader produced copy of the proceedings bearing Na.Ka.No.5457/A1/2014, dated 20.02.2020 whereby the writ petitioner's services as watchman stood regularized with effect from 06.12.2005. It is also submitted by the learned counsel on either side that the writ petitioner is presently working as watchman since 2020.

6.The stand of the learned counsel for the writ petitioner / respondent is that the writ petitioner's services should be regularized with



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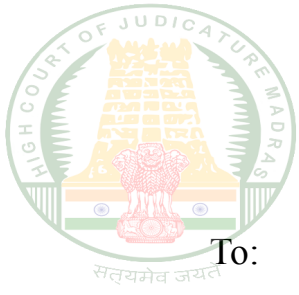
effect from 04.12.2000. According to the learned Special Government Pleader, on 04.12.2000, the writ petitioner was only appointed on 10A(1) basis and therefore, seeking regularization from the said date is not justified.

7.We do not want to go into this issue at present. The fact remains that writ petitioner has been reinstated and that her services have been regularized in the post of watchman with effect from 06.12.2005. If the writ petitioner wants regularization with effect from 04.12.2000, it is open to her to file independent writ petition on the said cause of action.

8.The order of the learned Single Judge is modified accordingly and the writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
13.08.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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