



W.A.(MD)Nos.1112, 1113 and 1114 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.06.2025

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

**W.A.(MD)Nos.1112, 1113 and 1114 of 2023
and
C.M.P.(MD)Nos.8545, 8546 and 8547 of 2023**

W.A.(MD)No.1112 of 2023:-

1.The Principal Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director of Social Welfare,
Saidapet,
Chennai - 600 015.

... Appellants

Vs.

B.Bagylakshmi

... 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.19144 of 2018 dated 13.11.2019 on the file of this Court.



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For Appellants : Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.K.K.Senthilvelan, Senior Counsel,
For Mr.C.Santhosh Kumar.

W.A.(MD)No.1113 of 2023:-

1.The Principal Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director of Social Welfare,
Saidapet,
Chennai - 600 015.

... Appellants

Vs.

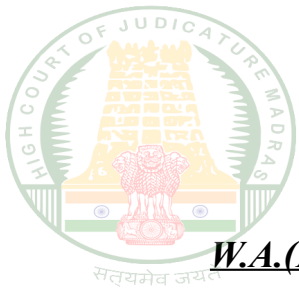
B.Bagylakshmi

... 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.9691 of 2018 dated 13.11.2019 on the file of this Court.

For Appellants : Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.K.K.Senthilvelan, Senior Counsel,
For Mr.C.Santhosh Kumar.



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W.A.(MD)No.1114 of 2023:-

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1.The Principal Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director of Social Welfare,
Saidapet,
Chennai - 600 015.

... Appellants

Vs.

B.Bagylakshmi

... 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.11409 of 2019 dated 13.11.2019 on the file of this Court.

For Appellants : Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.K.K.Senthilvelan, Senior Counsel,
For Mr.C.Santhosh Kumar.

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

Heard both sides.

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2.The State is on appeal challenging the common order dated 13.11.2019 made in W.P.(MD)Nos.9691 and 19144 of 2018 and W.P.(MD)No.11409 of 2019.

2.Bagyalakshmi is writ petitioner in all the writ petitions. She joined Social Welfare Department of Tamil Nadu as Child Nutritious Instructor wayback in the year 1982. She was promoted as Zonal Officer and then further promoted as Child Development Project Officer. On 30.10.2015, she became Social Welfare Officer. She reached the age of superannuation on 30.09.2017. Virtually on the eve of her retirement, she was issued with an order of suspension dated 28.09.2017. Subsequently, two sets of charge memo were issued on 03.08.2018 and 30.09.2019 respectively. Challenging the suspension order whereby she was not allowed to retire, Bagyalakshmi filed W.P.(MD)No.9691 of 2018. The two charge memos were challenged in W.P.(MD)No.19114 of 2018 and W.P.(MD)No.11409 of 2019. The learned Single Judge vide common order dated 13.11.2019 allowed all the three writ petitions. Aggrieved by the same, the State has filed these writ appeals.



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3.The learned Additional Government Pleader for the appellants reiterated all the contentions set out in the grounds of writ appeals and called upon this Court to set aside the order passed by the learned Single Judge and allow the writ appeals.

4.Per contra, the learned senior counsel for the writ petitioner / respondent submitted that the learned Single Judge had rightly interfered with the orders impugned in the writ petitions. He pointed out on the eve of one's retirement, a government employee ought not to be visited with an order of suspension. He relied on G.O.(Ms) No.144, Personnel and Administrative Reforms Department dated 08.06.2007 in this regard. He also placed heavy reliance on the report submitted by the Joint Director of the Department dated 18.09.2017 which completely exonerates the writ petitioner. According to him, in face of such an exoneration report, the impugned charge memos could not have been issued. He submitted that the learned Single Judge was right in granting relief on the ground that the charge memos were belatedly issued. He called upon this Court to sustain the order of the learned Single Judge and dismiss the writ appeals.



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5.We carefully considered the rival contentions and went through the materials on record. It is true that the charge memos were issued after the writ petitioner reached the age of superannuation. But on this ground, charge memos could not have been quashed. This is because vide order dated 28.09.2017, the writ petitioner was not only suspended but was specifically retained in service. Against a person, who has been retained in service, disciplinary proceedings can very well be initiated even after she reaches the age of superannuation. Therefore, this ground of attack has to necessarily fail.

6.The learned senior counsel placed heavy reliance on G.O.(Ms)No.144 Personnel and Administrative Reforms Department dated 08.06.2007. We have to repel this contention is also. It is true that the government issued a set of guidelines to protect the employees from being needlessly harassed and victimized at the fag end of their career. But this is only a guideline and it will not give any enforceable right to the writ petitioner. Therefore, the ground of challenge anchored on this government order also cannot be sustained.



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7.It is true that there was some delay in issuing the charge memos.

The cause of action dates back to 2015 – 2016. But the charge memos were issued only in 2018 – 2019. But mere delay in issuing the charge memo cannot be a ground for quashing the same. The delinquent has to plead and prove prejudice. In this case, no such prejudice has been shown. Thus, delay also could not have been a ground for quashing the charge memos.

8.Looked at from any angle, none of the grounds cited by the learned Single Judge can be said to be sustainable. We, therefore, set aside the order of the learned Single.

9.The writ petitioner is now in late 60's. The proceedings initiated against her cannot be kept indefinitely pending. It is also seen that citing the pendency of the writ petitions, the writ petitioner did not participate in the departmental enquiry. We, therefore, grant three weeks from today ie., 27.06.2025 to the writ petitioner to offer her explanation to the charge memos, if it has not already been submitted. It is open to the disciplinary authority to appoint a fresh enquiry officer. The writ



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petitioner can place all her defences and take full part in the enquiry. The enquiry shall be concluded within a period of two months. The entire disciplinary action should be concluded within a period of six months from today ie., 27.06.2025. All the contentions of the writ petitioner are left open.

10. These writ appeals are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

**(G.R.S. J.,) & (K.R.S. J.,)
27.06.2025**

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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and
K.RAJASEKAR, J.

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