



W.P.(MD).No.15876 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.07.2025

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD).No.15876 of 2019

and

W.M.P.(MD).No.12603 of 2019

T.Packiyam

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Personal Assistant to the District Collector,
(Mid day Meal Scheme),
Theni District.

3.The Commissioner,
Panchayat Union,
Bodinayakannur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 2nd respondent in his proceedings Na.Ka.No.7695/2018 Voo Va 12 dated 14.08.2018 and quash the same and consequently directing the respondents to regularize the period of leave as leave, and pay with all the monetary and retirement benefits to the petitioner.



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For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition challenging the impugned order passed by the second respondent terminating her services and rejecting her request for disbursement of service benefits.

2. According to the petitioner, she joined as an Assistant Cook in the year 1982 in the Noon Meal Scheme and subsequently, she was promoted as a Cook from 31.12.2008. She continued in service and she availed leave from 17.11.2014 to 16.12.2014 by submitting application. However, she was not able to continue her service and she had reached the age of superannuation on 30.06.2017. Thereafter, she had sent representation to the respondents seeking disbursement of service benefits. The said representation was rejected by the impugned order dated 14.08.2018. Aggrieved over the same, the petitioner has come forward with this Writ Petition.

3. The learned counsel for the petitioner submits that the petitioner had rendered service for more than two decades and without any enquiry or without



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giving any opportunity for the petitioner to give her explanation for her absence before superannuation, the impugned order has been passed after the date of superannuation, terminating the service of the petitioner. Hence, the same is not sustainable and he prays to set aside the same and seeks direction for disbursement of the service benefits.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submits that the petitioner had served under the Scheme post and the regular service protection granted under Article 311 of the Constitution of India is not applicable to the post of the petitioner and admittedly, she was absent from work after expiration of the leave period, i.e., from 17.12.2014 till her superannuation on 30.06.2017. Hence, the second respondent had rightly passed an order dismissing the petitioner from service and prays to dismiss the Writ Petition.

5. I have considered the submissions made on both sides and perused the materials available on record.

6. The counter affidavit filed by the third respondent clearly reveals that the petitioner was originally appointed as a Cooking Assistant in the year 1983



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in part time monthly honorarium basis. Subsequently, she was brought into time scale of pay from 01.01.1996 as per G.O.Ms.No.2, Social Welfare and Nutritious Meal Programme Department, dated 03.01.1996 and thereafter, she had also been promoted as a Cook vide proceedings dated 22.12.2008. Further, the counter shows that the petitioner applied medical leave from 17.11.2014 to 16.12.2014 by submitting proper leave application and thereafter, she had not returned to work.

7. Admittedly, the petitioner had rendered services from the year 1983 to 2014 and after her unauthorized absence from the year 2014, she had not reported for duty. Though the respondents claimed that they had sent a letter to the petitioner to report to duty with medical certificate, she had not returned to work. Though it is claimed that there are no rules applicable, which mandates an enquiry before taking any disciplinary action against her, admittedly, she was serving in the non-standard time scale of pay and the allegation herein is unauthorized absence.

8. This Court, in ***R.Palanivel Vs. Commissioner, Gingee Panchayat Union, Villupuram District and another, (2008) 5 MLJ 1284***, has considered the case of a part time employee, who was working in the Panchayat Union and



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held that though no detailed enquiry has been contemplated under the Service Rules, before passing any adverse orders, fair opportunity should be given to the employee, who was either temporary or part time employee. It is also held that when the allegation was denied by the employee, an opportunity has to be given by conducting an enquiry.

9. In the above decision, this Court has also referred to a judgment passed in *R.Adhikesavelu Vs. District Collector, Thiruvallur, 2004 (2) LW 577*, wherein, it has been held that before terminating the service of the part time clerk, providing show cause notice is very much necessary.

10. In the case on hand, the petitioner was serving for several decades and according to her, she was unauthorisedly absent. There is no material produced before me to show that she was given opportunity to report to duty or to show cause that her absence would not result in termination of service.

11. The impugned order also shows that only on the date of passing of the impugned order, the order of termination is passed. Admittedly, the petitioner herein attained her superannuation in the year 2017 itself. While seeking settlement of service benefits, the order of termination has been passed by the



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second respondent, which is not proper and clear violation of principles of natural justice. It is also stated in the counter that the petitioner is not entitled for any benefits in this regard. I am of the view that the said observation that she is not entitled for any benefit is not proper and since she has rendered service for the period between 1983 and 2014 and only absented from 2014 to 2017, the service period of the petitioner shall be treated from the date of joining till the date of her absence from 17.11.2014 as a duty period. She is eligible for permissible retirement benefits, as if she was retired from 17.12.2014 and her benefits shall be settled by the respondents within a period of two (2) months from the date of receipt of a copy of this order.

12. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To
1. The District Collector,
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K.RAJASEKAR,J.

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