



W.A.(MD)Nos.2727 of 2024 and WA(MD)No.409 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.06.2025

CORAM

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

**W.A.(MD)Nos.2727 of 2024 & 409 of 2025
and
C.M.P.(MD)No.3189 of 2025**

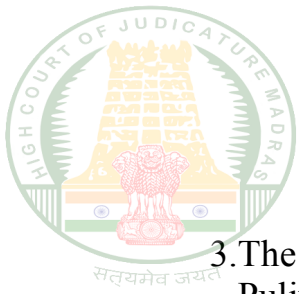
WA(MD)No.409 of 2025 : -

- 1.The District Collector,
Dindigul District,
at Dindigul.
- 2.Personal Assistant to District
Collector,
Development Section,
Dindigul District.
- 3.The Block Development Officer,
Ottanchathiram Block,
Dindigul District.

... Appellants /
Respondents 1 to 3

Vs.

- 1.N.Banumathi
- 2.The Panchayat President,
Ellapatti Panchayat,
Ottanchithiram Taluk,
Dindigul District.



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3.The Panchayat President,
Puliyoornatham Panchayat,
Ottanchathiram Block,
Dindigul District.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent to set aside the order dated 03.04.2024 made in WP(MD)No.6201 of 2024.

For Appellant : Mr.N.Ramesh Arumugam,
Government Advocate

For Respondents : Mr.M.Joseph Thatheus Jerome for R1

WA(MD)No.2727 of 2024 : -

N.Banumathi

... Appellant

vs.

1.The District Collector,
Dindigul District, Dindigul.

2.The Personal Assistant to District
Collector,
Development Section,
Dindigul District.

3.The Block Development Officer,
Ottanchathiram Block,
Dindigul District.

4.The Panchayat President,
Ellapatti Panchayat,
Ottanchithiram Block, Dindigul District.



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5.The Panchayat President,
Puliyoornatham Panchayat,
Ottanchathiram Block,
Dindigul District.

Respondents 1 to 3

Prayer : Writ Appeal filed under Clause XV of Letters Patent against the order dated 03.04.2024 made in WP(MD)No.6201 of 2024.

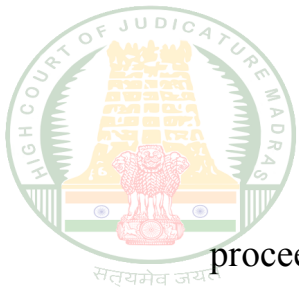
For Appellant : Mr.N.Joseph Thatheus Jerom

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate for R1 to R3

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

Heard both sides.

2.The writ petitioner Banumathi as well as the department have filed these writ appeals against the order dated 03.04.2024 in WP(MD)No.6201 of 2024. Banumathi was working in Puliyoornatham Panchayat, Oddanchathiram Taluk as Assistant. She was suspended by the President of the local body vide order dated 01.11.2007. Questioning the same, Banumathi filed WP(MD)No.9492 of 2007. Pursuant to the direction given in the writ petition, the District Collector, Dindigul vide



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proceedings dated 05.09.2008 revoked the suspension order but transferred her to Ellapatti Panchayat from Puliyoornatham Panchayat.

Instead of complying with the transfer order, Banumathi chose to file WP(MD)No.9607 of 2008. The writ petition was dismissed vide order dated 17.11.2008. However, the following direction was given :

“8.At this juncture, it is submitted by the learned counsel for the petitioner that the petitioner has not been paid the salary and arrears. The petitioner is at liberty to make a representation to the respondents in this regard and if any such representation is made, the first respondent is directed to consider the said representation on merits and disburse the salary and arrears, if any, without any further delay, in any event, within a period of three months from the date of receipt of the representation from the petitioner.”

3.The petitioner's request to revoke the transfer order was not accepted. In these circumstances, Banumathi filed WP(MD)No.1537 of 2010 to reinstate her as Assisitant in the office of Ellapatti Panchayat by implementing the order dated 05.09.2008 passed by the District Collector, Dindigul. The writ petition was disposed of on 17.04.2018 in the following terms :



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“9.In view of the said submission made by the learned Special Government Pleader, this Court is inclined to dispose of the writ petition with the following direction:-

“that the second respondent is directed to comply with the orders of the first respondent, dated 05.09.2008 in Na.Ka.No.4306/2007/A4 and correspondingly posting orders to be given to the petitioner at the third respondent village Panchayat, if such exercise has not already been undertaken.”

10.Needful as indicated above shall be done by the second respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such order to be passed by the second respondent, the petitioner shall immediately report to the third respondent Panchayat and to join duty thereon.

11.With regard to the non-working period for all these years, it is open to the respondent especially the first and second respondents to consider the request of the petitioner as to how such non-working period shall be regularized as per the rule, which governing service conditions of the petitioner and such exercise also shall be taken by the first and second respondents, within a period of eight weeks thereafter.”



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Pursuant to the said direction, the Block Development Officer, Oddanchathiram Union issued proceedings dated 21.06.2019 reinstating her in Ellapatti Panchayat Union and also regularized her services. However, applying the principle of no work no pay, backwages were denied. Subsequently, the Personal Assistant to Collector, Development Section, Dindigul issued communication dated 28.12.2013 declining to regularize the period of absence from 01.11.2007 to 01.07.2019. Challenging the same, Banumathi filed WP(MD)No.6201 of 2024. The learned Judge vide order dated 03.04.2024 disposed of the writ petition in the following terms :

“8.The petitioner's case will not fall under availing leave by giving previous notice, because, it is obviously for the reason that the petitioner was kept under suspension. Had the respondents initiated any departmental action and the allegations against the petitioner came to be proved, then it is possible for the respondents to consider the suspension period as 'out of service' or leave without loss of pay. The respondents also attributed to the decade old delay. When charges against the petitioner were not proved and no order of punishment is passed by the respondents, the period of suspension has to be regularized and at this remote point of time, the respondents cannot initiate departmental action only



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for the reason that the petitioner has come to this Court and prayed for some relief. Since the inaction on the part of the respondents also contributed to the huge delay, the petitioner cannot be penalized and her service has to be regularized, however, only with 50% of back wages.

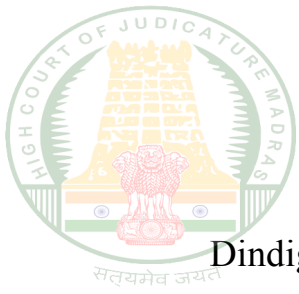
9. In view of the above observations, this writ petition is disposed of and the respondents are directed to re-consider the issue and regularize the service of the petitioner. However, it is made clear that the petitioner is entitled to only 50% of the back wages.”

Aggrieved by the direction to pay only 50% of the backwages, Banumathi filed WA(MD)No.2727 of 2024. Aggrieved by the direction to regularise the services of Banumathi, the department filed WA(MD)No.409 of 2025.

4.The learned counsel on either side reiterated their respective contentions set out in the memorandum of grounds of appeal.

5.We carefully considered the rival contentions and went through the materials on record. At the very outset, we have to record our displeasure over the conduct of Mrs.Banumathi. The District Collector,

7/11



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Dindigul was gracious enough to revoke the suspension order. He however transferred her to another village panchayat. The District Collector had done so keeping in mind the interest of the employee. He probably wanted the employee to be away from the local body where her relationship with other employees came under strain. Ellapattai panchayat is at a distance of 11 kms from Puliyoornatham panchayat. Banumathi unfortunately chose to challenge the order of the District Collector, Dindigul by filing WP(MD)No.9607 of 2008. As already noted, the said writ petition was dismissed. The specific stand of the department is that on account of the non-joining of Banumathi in the transferred place, interest of administration suffered and therefore, one another employee came to be appointed. In these circumstances, Ellapatti panchayat was not able to accommodate Banumathi when she later reported for duty. That led to the filing of one more writ petition ie., WP(MD)No.1537 of 2010.

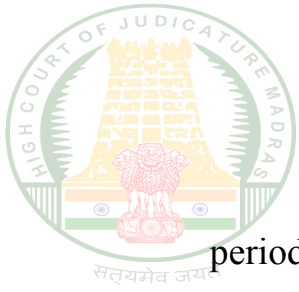
6.It is stated by the learned government counsel that WP(MD)No. 9607 of 2008 filed by Banumathi challenging the transfer order directing her to join duty in Ellapatti Panchayat suffered dismissal for default in



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the year 2012. Banumathi got the said writ petition restored in April 2014 and the same was disposed only on 17.11.2008. For this delay of eight years, the department cannot be blamed. But, finally, Banumathi joined in the transferred place only on 02.07.2019.

7.Taking into account the over all circumstances, we are of the view that the direction of the learned Single Judge to award 50% backwages may not be appropriate. The principle of “no work, no pay” is very much applicable in this case. If the employee is absolutely not at fault and it was the employer who prevented the employee from joining duty, then and then alone, full backwages could be directed to be paid. In this case, Banumathi was clearly at fault and it was she who invited the whole thing. She filed WP(MD)No.1537 of 2010 to implement the order of the District Collector after a gap of two years. In the meanwhile, obviously, vacancy in the transferred place in question could not have been kept vacant. Therefore, Ellapattai panchayat was justified in having second thoughts. The order of the learned Single Judge is set aside. In the interest of justice, we direct regularisation of the period ie., from 05.09.2008 till 02.06.2019 without any payment of backwages. This



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period shall be taken into account for the purpose of increment, fixation of pay etc., and pension, if eligible.

8.The order of the learned Single Judge is accordingly modified.

This writ appeal is disposed of. No costs. Connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
13.06.2025

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

To:

- 1.The District Collector, Dindigul.
- 2.Personal Assistant to District Collector,
Development Section, Dindigul District.
- 3.The Block Development Officer,
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- 4.The Panchayat President,
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- 5.The Panchayat President,
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