

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.31651 of 2015

R.Selvaraj

.. Petitioner

vs

1. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai 600 104.

2. Union of India
rep.by the Director General
EME Crops, Army Head Quarters
New Delhi.

3. The Director
Southern Command
C/o 56 APO
Pune.

4. The Deputy Director
Electrical and Mechanical Engineers
(DDEME), Island Grounds
Chennai 600 009.

5. The Officer Commanding
Station Workshop, EME
Pallavan Salai
Chennai 600 002.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the concerned records relating to the order dated 11.06.2015 in O.A.No.545 of 2014 passed by the first respondent and to quash the same.

For Petitioner : Mr.S.Ramaswamy Rajarajan
For Respondents : Mr.V.P.Sengottuvel
Senior Central Government
Counsel for R2
RR3 and 4 - Service awaited
R1- Tribunal
R5- No appearance

O R D E R

(Order of the Court was made by HULUVADI G.RAMESH,J.,)

The petitioner, aggrieved by the order passed by the Tribunal in O.A.No.545 of 2014 dated 11.06.2015, has preferred this writ petition seeking to quash the same.

2. The brief facts of the case is as follows:

The petitioner, while working as Master Craftsman (Welder) in the fourth respondent office was placed under suspension by order dated 11.02.2009 and he was issued with a charge memo under Rule 14 of CCS(CCA) Rules. After completion of the enquiry proceedings, he was issued with a show cause notice proposing to impose penalty of compulsory retirement. Aggrieved by the same, the petitioner filed O.A.No.647 of 2009 before the Central Administrative Tribunal, Chennai wherein the Tribunal while setting aside the show cause notice remanded the matter back to the respondents directing them to furnish copy of the inquiry report to the petitioner. Thereafter, the petitioner submitted a representation, which was dismissed by the fifth respondent by imposing a penalty of compulsory retirement. The petitioner, once again filed O.A.No.1461 of 2010 and the Tribunal vide order dated 24.08.2011 while setting aside the order of compulsory retirement directed the respondents to conduct fresh enquiry in accordance with rules. Pursuant to the said order, the petitioner was reinstated into service and enquiry was conducted. Based on the enquiry report, the disciplinary authority issued a show cause notice to the petitioner stating that it is proposed to impose the major penalty of "reduction of two increments to a lower stage in the time scale of pay for a period of two years and will not earn increments during the period and will have the effect of postponing the future increments of pay". Being dissatisfied with the same, the petitioner submitted a representation, which was rejected by the fourth respondent, by order dated 28.07.2012. Therefore, the petitioner filed appeal challenging the said order before the Appellate Authority and since the same was not disposed of, the petitioner filed O.A.No.545 of 2014 seeking to quash the disciplinary proceedings and to treat the period spent by the petitioner under suspension and the period

between compulsory retirement and reinstatement as 'on duty'. However, the Tribunal, while confirming the order passed by the disciplinary authority, rejected the relief claimed by the petitioner. Hence the present writ petition.

3. We have heard the learned counsel representing the petitioner and the learned Standing Counsel representing the respondents/Union of India.

4. Learned counsel for the petitioner filed additional typed set of papers stating that the petitioner is restricting his earlier prayer before the Tribunal in O.A.No.545 of 2014 seeking back wages and restricting only to the extent of grant of subsistence allowance for the intervening period spent by him, i.e., between the dates of compulsory retirement till the date of reinstatement, viz., from 01.05.2010 to 15.12.2011 as per Government of India's Order dated 30.05.1962 given under Rule 54 (B) of Fundamental Rules prescribed for Central Government employees. He also submitted that the petitioner is due to retire on 31.05.2016 and prays this Court that the respondents may be directed to grant him the subsistence allowance at the earliest.

5. In such a background, when the matter was earlier listed for hearing, we had directed the learned Central Government Standing Counsel to produce documents regarding reinstatement of the petitioner back into service.

6. When the matter is taken up today, the learned Standing Counsel submits that there was no specific order passed by the respondents to that effect. But, it is the case of the petitioner that he has joined duty in the fifth respondent office on 16.12.2011 and a joining report given by him to that effect also has been produced before this Court. Further, he has also enclosed the pay slips for the months of March and April 2012.

7. Since no material document has been furnished by the respondents regarding the reinstatement of the petitioner into service, based on the documents produced on the side of the petitioner, we feel that the respondents would have no difficulty in treating the period spent by the petitioner between the compulsory retirement and the date of reinstatement, viz., 01.05.2010 to 15.12.2011 as deemed suspension for which, he is entitled to the subsistence allowance as per Rule 54(B) of Fundamental Rules prescribed for Central Government employees in Government of India's Order dated 30.05.1962.

8. Considering the aforesaid facts and circumstances of the case, we direct the respondent-authority to calculate the period between compulsory retirement till reinstatement and

grant the subsistence allowance to the petitioner as per rules and in accordance with law. Since it is submitted that the petitioner is due to retire on 31.05.2016 on attaining the age of superannuation, the respondent-authority is directed to grant the same within a period of 15 days from the date of receipt of a copy of this order.

9. With the above observation, this writ petition is disposed of. No costs.

-s/d-

Assistant Registrar (CSIV)

True Copy

Sub-Assistant Registrar

vj2

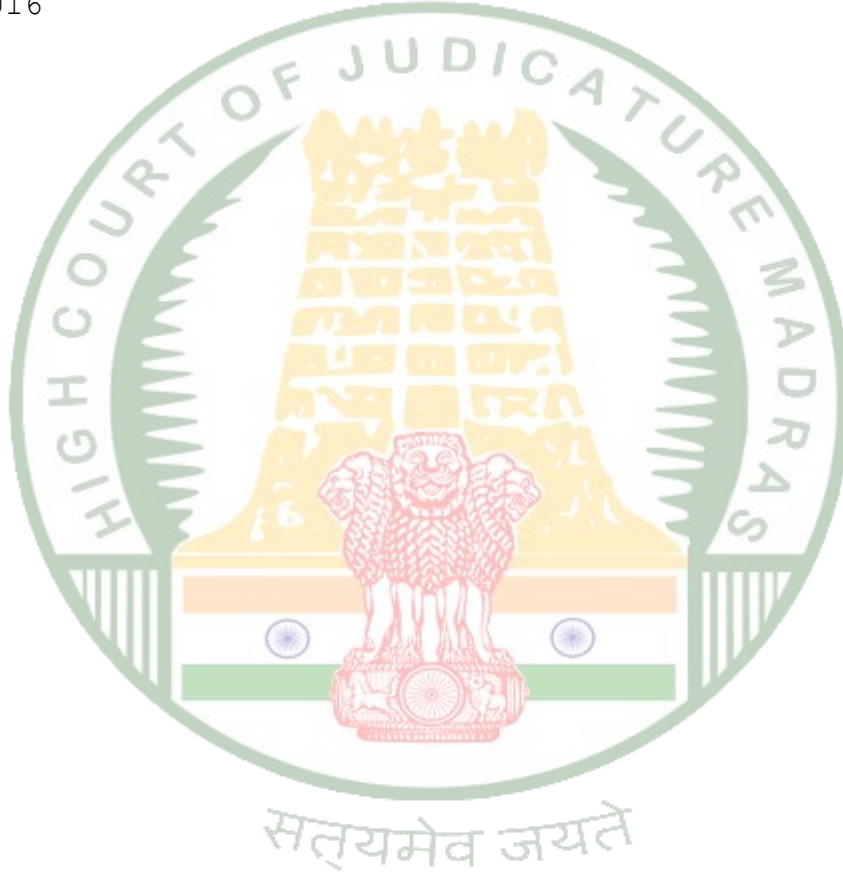
To

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+1 cc to Mr.S.Ramaswamy Rajarajan Advocate sr.26695
+1 cc to Mr.V.P.Sengottuvel Advocate sr.26700

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aa16/06/2016



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