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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No. 18139 of 2015

B.Manoharan

..Petitioner

Vs.

1. The Additional Director of Survey and Land Records,
Tamil Nadu Survey House,
Chepauk,
Chennai- 600 005

2. The Assistant Director of Survey and Land Records,
Coelenterate Complex,
Ramanathapuram.

..Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second Respondent i.e., the Assistant Director of Survey and Land Records, Ramanathapuram, relating to memo No.RC.NO.4821/2015 (A1), dated 29.06.2015 and quash the same and consequently direct the respondents to sanction increments to the petitioner for the period from 12.07.2004 to 31.03.2015 and make payment within a specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.J.Gunaseelan

Government Advocate

O R D E R

This Writ petition has been filed by the petitioner for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent, namely, the Assistant Director of Survey and Land Records, Ramanathapuram, relating to memo No.RC.NO.4821/2015 (A1), dated 29.06.2015, and quash the same and consequently direct the respondents to sanction increments to the petitioner for the period from 12.07.2004 to 31.03.2015 and make payment within a specified time frame.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

<https://hcservices.courts.gov.in/hcservices>
3. The first issue that arises for considering in this case is whether the respondents are justified in withholding increment for



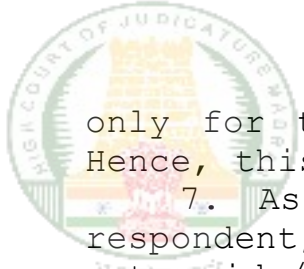
the petitioner on the ground that the petitioner was under suspension for a period and that the period was not regularised.

4. The brief facts in the present case is as follows:-

While the petitioner was working in the office of the Assistant Director of Survey and Land Records, Ramanathapuram, he was placed under suspension by an order, dated 28.05.2003, on the ground that a Criminal Case was registered under Section 7 of Prevention of Corruption Act, 1988, by the Vigilance and Anti-Corruption Department. It is also a fact that the order of suspension was revoked later by proceedings in No.A3/5251/2003, dated 08.07.2004 and the petitioner joined duty as Draftsman on 12.07.2004. However, the petitioner was not granted any increment for the past 12 years. Hence, he applied to the second respondent for sanction of annual increment from the date of re-instatement. However, the request of the petitioner was rejected on the ground that the criminal case is still pending.

5. The learned counsel for the petitioner relied upon the Judgement of this Court in **WP (MD) No. 3533 of 2013, dated 11.02.2014**. In respect of a similar case, this Court was not inclined to accept the reason for denying the increment to the petitioner. In that case, it has been specifically held that mere pendency of the disciplinary proceedings cannot be a bar for non-payment of increment due to an employee concerned. Since the petitioner is working after the revocation of the suspension order, the Court pointed out that there is no law which prohibits the entitlement of the petitioner to get increment for the work done by him. Positive direction was issued to the respondent therein, after set asiding the order passed by the Authority concerned, to make payment of increment to the petitioner in accordance with law. In compliance of the order, the respondent in that Writ Petition also complied with the direction of the Court.

6. In the present case, the only reason stated in the counter affidavit of the second respondent is that the period of suspension has not been regularised in view of the pendency of the criminal case and that therefore, the petitioner cannot be given periodical increments without regularising the period of suspension. It was in that context, the respondents also have taken a stand that the order passed in *W.P. (MD) No. 3533 of 2013, dated 11.02.2014*, cannot be applied to the present case. The contention of the respondents has no merits. In the order passed by this Court in *W.P. (MD) No. 3533 of 2013, dated 11.02.2014* is in respect of similar case and it is squarely applicable to the present case. By the impugned order, the increment was declined due to pendency of the criminal case and for non-regularisation of the period of suspension. The sanction of increment is claimed



only for the period after the order of suspension was revoked. Hence, this Court is inclined to allow the Writ Petition.

7. As a result, the impugned order passed by the second respondent, by memo No.RC.NO.4821/2015(A1), dated 29.06.2015, is set aside/quashed and accordingly, the Writ petition is allowed and the first respondent is directed to sanction increments to the petitioner for the period from 12.07.2004 to 31.03.2015 and to make the payment within a period of twelve weeks from the date of receipt of a copy of this Order. No costs.

Sd/-

Assistant Registrar(CS)

/True Copy/

Sub Assistant Registrar

To

1. The Additional Director of Survey and Land Records,
Tamil Nadu Survey House, Chepauk,
Chennai- 600 005

2. The Assistant Director of Survey and Land Records,
Collectrate Complex, Ramanathapuram.

+1cc to Mr.Special Government Pleader,SR.13759

+1cc to M/S.S.Visvalingam,Advocate,SR.13391

ORDER MADE IN
W.P. (MD) .No.18139 of 2015
09.03.2017

KK-MR-27.03.2017-3P-5C



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