

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T. SELVAM
AND
THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.5181/2018 & WMP.No.6347 & 6348/2018

N.Ganesan

Petitioner

Versus

The Principal District Judge
Disciplinary Authority,
Namakkal District, Namakkal.

Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the respondent bearing ROC.No.6977/A/2009 dated 19.10.2009 and quash the same and to direct the respondent herein to forthwith reinstate the petitioner in service, repost him as Junior Assistant and to treat the entire period of suspension from 21.12.2001 till 07.01.2004 and the period of suspension from 20.10.2009 till the date of reinstatement of the petitioner as duty period for all purposes and to grant him all consequential service and monetary benefits within a limited time frame.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.M.Santhanaraman

ORDER

[Order of the Court was made by N.SATHISH KUMAR, J.]

By consent, the main writ petition itself is taken up for final disposal. Mr.M.Santhanaraman, learned counsel accepts notice on behalf of the respondent.

2 The writ petitioner has filed the above writ petition challenging the order of the respondent dated 19.10.2009, with a prayer to quash the same and to direct the respondent to the

respondent herein to forthwith reinstate the petitioner in service, repost him as Junior Assistant and to treat the entire period of suspension from 21.12.2001 till 07.01.2004 and the period of suspension from 20.10.2009 till the date of reinstatement of the petitioner as duty period for all purposes and to grant him all consequential service and monetary benefits.

3 Though the petitioner challenges the order of suspension passed by the respondent in the disciplinary proceedings in the year 2004 and also seeks regularisation of his suspension period from the year 2009, on a perusal of the materials and after hearing both sides, it is clear that originally, the petitioner was charged for fabricating the Court order by falsification of the records, based on which charge, a criminal complaint was lodged against him. Simultaneously, Departmental Proceedings were also initiated. In the Disciplinary Proceedings, a punishment was imposed under Rule 17 [b] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, and was imposed with the reduction in rank, thereby demoting him from the post of Junior Assistant to the post of Copyist with minimum time scale of pay applicable to the post of Copyist and it was also held that the petitioner will be unfit for promotion for a period of three years from the date of his joining duty and the suspension period was directed to be created as extra-ordinary leave on loss of pay. Thereafter, it appears that the criminal case lodged against him ended in conviction before the Trial Court. Consequently, he was issued with another show cause notice in the year 2009 and was placed under suspension. Now, it appears that the conviction recorded by the Trial Court was set aside by this Court in CrI.RC.No.1213/2010 under order dated 17.07.2017. In view of the same, we are of the firm view that the second show cause notice for similar set of facts in initiation of the disciplinary proceedings, is not maintainable in view of the Fundamental Rules.

4 Though the petitioner has prayed for a larger relief, this Court, directs the respondent to consider and dispose of the representation of the petitioner dated 04.12.2017, keeping in mind, the observations made by this Court in this order, on merits and in accordance with law and pass orders within a period of one week from the date of receipt of a copy of this order, since the petitioner is attaining the age of superannuation on 31.03.2018. We also make it clear that the imposition of punishment in the year 2004 shall remain unaltered ; but only the period of suspension from the year 2009 alone is to be taken into consideration.

5 The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

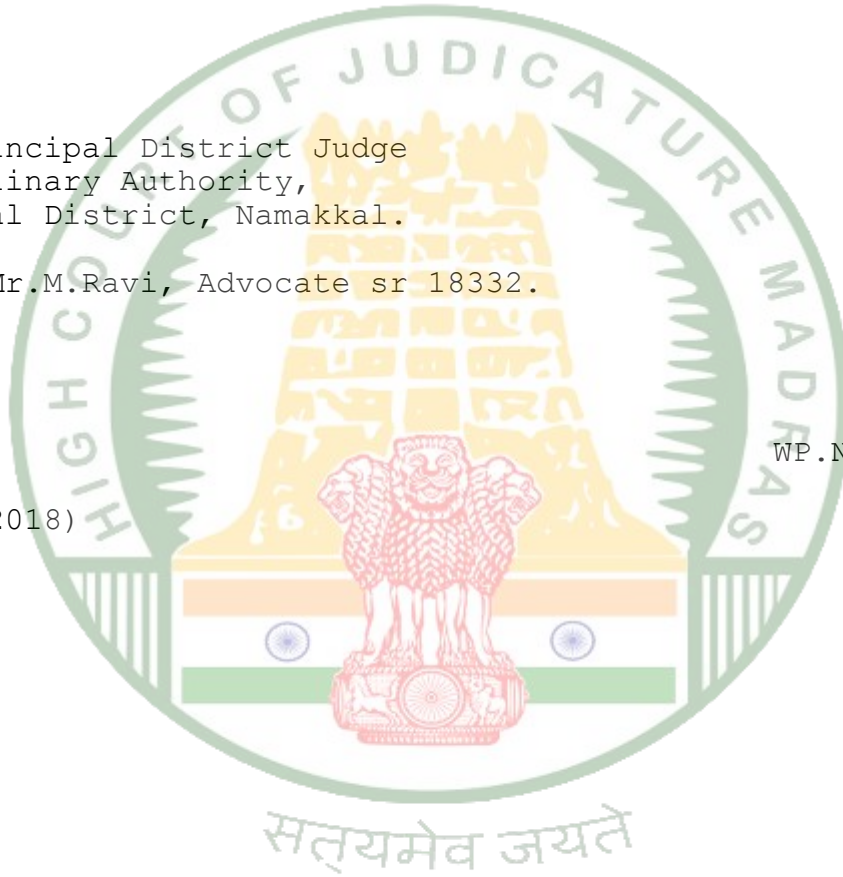
AP
To

The Principal District Judge
Disciplinary Authority,
Namakkal District, Namakkal.

+1 CC to Mr.M.Ravi, Advocate sr 18332.

SP(12/03/2018)

WP.No.5181/2018



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