

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.30293 of 2018

R.Umapathy

... Petitioner

Vs

The Assistant Director of Survey and Land Records
Kanchipuram District, Kanchipuram.

... Respondents

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.K.Rajendra Prasad,
Addl.Govt.Pleader

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records in connection with the impugned order passed by the respondent in Na.Ka.Aa2/3247/2016 dated 15.09.2017 and to quash the same and further direct the respondents to regularize the suspension period as duty for all purpose and grant all consequential service and monetary benefits.

O R D E R

The petitioner entered into service as a direct recruit to the post of Surveyor-Cum-Draughtsman on 21.09.1983. He was suspended by the respondent on 21.06.2010, based on his involvement in a criminal case in Crime No.4 of 2010 for the alleged offence under Prevention of Corruption Act. The suspension order was revoked by the respondent on 17.02.2016 and the petitioner was reinstated into service.

2. Learned counsel for the petitioner submits the criminal case initiated against the petitioner ended in acquittal by the trial court on 14.07.2015 and immediately, the petitioner approached the respondent for reinstatement. However, the petitioner was reinstated only on 17.02.2016 and the period of suspension has not been regularised. By the impugned order dated 15.09.2017, the respondent informed the petitioner that in the period of suspension from 17.06.2010 to 16.02.2016, 240 days were treated as earned leave, 180 days were treated as half

salary leave and 1651 days were treated as leave on loss of pay. Aggrieved over the same, the petitioner submits that the above stand taken by the respondent in the impugned order amounts to double jeopardy since the respondent has already imposed a punishment of stoppage of increment. Therefore, the petitioner has filed the present writ petition, challenging the impugned order dated 15.09.2017.

3. Mr. Rajendra Prasad, learned Additional Government Pleader takes notice on behalf of the respondents.

4. Learned counsel for the petitioner submits that during the pendency of the criminal case, the respondent had issued a charge memo dated 06.12.2010 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules and after the acquittal, cancelled the charge memo dated 06.12.2010. Subsequently, the respondent issued a fresh charge memo dated 14.01.2016 under the aforesaid rules and also appointed an enquiry officer. On the basis of the enquiry report, the respondent imposed a punishment of "stoppage of increment for a period of six months without cumulative effect" on 12.05.2017. The petitioner's date of retirement was 31.05.2017.

5. Under the circumstances, the impugned order dated 15.09.2017 is set aside and the respondent is directed to pass orders as per Rule 9 of the Fundamental Rules and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To

The Assistant Director of Survey and Land Records
Kanchipuram District, Kanchipuram.

+1 cc to M/s.S.Sivakumar, Advocate SR No.79683.

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spd(co)
ssm(19/12/18).