



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2018

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THE HON'BLE Mr.JUSTICE R.SURESH KUMARW.P.(MD) No.9530 of 2018

K.Lakshmanan

... Petitioner

-vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009.

2.The Director of Secondary School Education,
College Road, Chennai-600 006.

3.The Chief Educational Officer,
Tuticorin District, Tuticorin-2.

4.The Head Master,
Government Higher Secondary School for Boys,
Tiruchendur.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the third respondent to pay a sum of Rs.80,415/- towards the loss and damages incurred to the petitioner because of the unlawful and illegal suspension order dated 04.12.1998 by the third respondent in RC.No.6525-A2/98 with interest at the rate of 12% per annum.

For Petitioner	: Mr.S.Balasubramanian
For Respondents	: Mr.K.Saravanan Government Advocate

O R D E R

The prayer sought for in this Writ Petition is for a writ of Mandamus, directing the third respondent to pay a sum of Rs.80,415/- towards the loss and damages incurred to the petitioner because of the unlawful and illegal suspension order dated 04.12.1998 by the third respondent in RC.No.6525-A2/98 with interest at the rate of 12% per annum.

2.Heard Mr.S.Balasubramanian, learned counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the respondents.



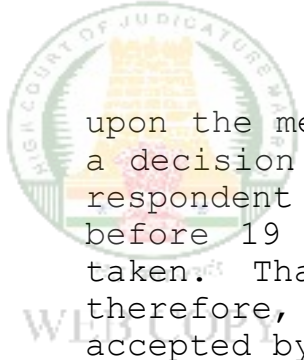
3. The petitioner was appointed as Junior Training Instructor in the Government School and that thereafter he has been serving for long years. During his service, he was transferred to the Karungulam Government Higher Secondary School and he was placed under suspension by the third respondent vide order dated 04.12.1998. The suspension was continued till 04.03.1999 i.e., for 95 days. During the suspension period though the petitioner was entitled to get subsistence allowance, the same was not paid. Thereafter, suspension was revoked after 95 days. In order to settle the said 95 days with over all service benefits, the petitioner requested the respondents for several years. Representations have been given, which are available from the year 2005, almost, every year or every alternative year, such representations were given by the petitioner to consider the request of the petitioner for regularizing and to settle and pay the service benefits for the 95 days suspension period. At last, the third respondent, by a communication, dated 08.12.2017, has stated that the petitioner's suspension was revoked on 04.03.1999 and thereafter 19 long years have gone and as of now, there is no record available and therefore, the request of the petitioner cannot be considered. Aggrieved by the said reply given by the third respondent, the petitioner has filed this Writ Petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials placed before this Court.

5. The learned Government Advocate appearing for the respondents submits that, the respondents especially the third respondent has given oral instructions to the learned Government Advocate, stating that the records are not available, that is the reason why, no decision could be taken on the request made by the petitioner to settle the service benefits for the said 95 days suspension period.

6. Though the petitioner has not challenged the said communication dated 08.12.2017 issued by the third respondent stating that for want of records, decision could not be taken on the request of the petitioner and also the petitioner has sought only a Writ of Mandamus, this Court, by molding the prayer sought for in the Writ Petition, is inclined to pass the following order:-

"that the reasons cited in the reply dated 08.12.2017 of the third respondent is not justifiable and sustainable for the reason that since the petitioner had been admittedly suspended on 04.12.1998 and suspension was revoked on 04.03.1999 and the said records, since were not available, as has been reflected in the said reply dated 08.12.2017, the third respondent shall take into account the said period and settle the service benefits of the said period of suspension of 95 days of the petitioner either way in accordance with law. If the third respondent wants to settle it as a duty with pay or duty without pay or Earned Leave or Medical Leave depending



upon the merits of the issue and as per the law, which is in vogue, a decision can be taken by the third respondent, instead, the third respondent has given a reason that, since it had been taken place before 19 years and no records are available, decision cannot be taken. That reason, on the face of it, is unacceptable and therefore, the said stand taken by the third respondent cannot be accepted by this Court."

7. In the result, there shall be a direction to the third respondent to reconsider the issue on the basis of the request, as representations were given by the petitioner on various dates from 2005 till 2017 and last such representation is dated 11.09.2017 and take a decision, as how to settle the suspension period of the petitioner between 04.12.1998 and 04.03.1999 and accordingly pass a reasoned order within a period of six weeks from the date of receipt of a copy of this order. The petitioner shall give a copy of the representations from 2005 to 2017 along with the copy of this order to the third respondent and on receipt of the same, the needful, as indicated above shall be undertaken by the third respondent.

8. With this direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl. Side)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
The State of Tamil Nadu,
Department of Education,
Fort St. George, Chennai-600 009.
2. The Director of Secondary School Education,
College Road, Chennai-600 006.
3. The Chief Educational Officer,
Tuticorin District, Tuticorin-2.
4. The Head Master,
Government Higher Secondary School for Boys, Tiruchendur.

+2cc to Mr. S. Balasubramanian, Advocate, SR.No.70881.
+1cc to Special Government Pleader, SR.No.70992.

W.P. (MD) No. 9530 of 2018
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