



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.6985 of 2017

&

WMP (MD) No.5513 of 2017

P.Rajendran

... Petitioner

Vs.

1.The Commissioner of Most
Backward Classes & Denotified
Communities,
Chennai - 600 005.

2.The Joint Director,
Kallar Reclamation,
District Collector's Campus,
Madurai.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka. H2/38738/2013 dated 08.03.2017, quash the same and consequently direct the first respondent herein to decide the appeal filed by the petitioner dated 11.04.2017 forthwith.

For Petitioner : Mr.C.Jegannathan
for M/s.Veera Associates

For respondents : Mr.K.Saravanan,
Government Advocate.

O R D E R

The writ petitioner was working as Selection Grade Teacher in the Kallar Reclamation School. The petitioner got involved in a criminal case. Therefore, he was suspended from service. But, the criminal case ended in acquittal. The issue then arose before the disciplinary authority as to how the period of suspension should be treated. Disciplinary action was also independently initiated against the writ petitioner. There were totally five charges. The charges were held to be proved by order dated 20.02.2017. The disciplinary authority directed that the period of suspension shall be treated as one of eligible leave partly and for the remaining period shall be treated as one of leave on loss of pay.



2. Aggrieved by the aforesaid order, the writ petitioner preferred an appeal before the first respondent. Even before the said appeal could be disposed of, the impugned order of recovery has been made. The amount that is sought to be recovered represents the subsistence allowance paid to the writ petitioner. When the writ petitioner was under suspension, he was entitled to be paid subsistence allowance. Such an amount cannot be ordered to be recovered. Merely because, the period of suspension was ordered to be treated as one on loss of pay, such an order of recovery cannot be made.

3. The impugned order of recovery is illegal and the same is quashed. The writ petition is allowed. The learned counsel for the petitioner submits that a sum of Rs.1,77,400/- was already recovered from the petitioner's salary. The said amount shall be refunded to the writ petitioner forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Most
Backward Classes & Denotified
Communities, Chennai - 600 005.

2. The Joint Director, Kallar Reclamation,
District Collector's Campus,
Madurai.

+1CC to M/s.Veera Associates, SR.No. 43420

+1CC to the Special Government Pleader SR.No.43669

W.P (MD) No.6985 of 2017
&

WMP (MD) No.5513 of 2017
22.01.2018

skm

AM/SKN RSK/SAR 4/22.05.2018/2P/5C