

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2019

CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.17873 of 2010

M.Dhas @ Thomas

...Petitioner

Vs

1.The District Adi Dravidar and
Tribal Welfare Office, Salem.

2.The Special Tahsildar (Adi Dravidar Welfare),
Salem.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to pay to the petitioner salary for the period of medical leave from 02.03.2001 to 09.04.2001 (40 days) and pay and other allowances for the period 10.04.2001 to 13.12.2002 (21 months) as per the directions of the Hon'ble Tamil Nadu Administrative Tribunal in O.A. Nos.473/2003 and 4963/2002 dated 16.09.2002 and the annual increments due to him from 01.04.1996 and the selection and special grade scales of pay with interest.

For Petitioner : Mr.P.Rajendran

For Respondents : Mrs.K.Bhuvaneswari,
Additional Govt.Pleader

ORDER

The case of the petitioner is that he was appointed as a Cook in the year 1988 under the District Adi Dravidar and Tribal Welfare Department and his appointment was regularised with effect from 30.10.1988 and he was continuing in service till March 2001. He went on medical leave for a period of 20 days from 02.03.2001 and extended it for another 20 days. When he was about to join after the expiry of leave, the respondents did not give him posting. In this connection, the petitioner filed an Original Application before the Tamil Nadu Administrative Tribunal in O.A.No.473 of 2002, in which a counter was filed by the Department admitting that the petitioner was a regularly appointed cook, but also stating that the petitioner was arrested for unlawful possession of sandalwood logs in the year

1994 and remanded in jail for a long time and hence he was liable to be proceeded with departmentally. The petitioner also filed another application in O.A.No.4963 of 2002 before the Tribunal praying for a direction to pay salary to him from 10.04.2001 onwards. The Tribunal passed a common order in those Original Applications on 16.09.2002 directing the respondents to give him posting and to treat the period from 10.04.2001 till he gets posting, as compulsory wait and to pay full salary to him for the said period. Finally the matter culminated in reinstating the petitioner in service on 14.12.2002, but he was not paid arrears of salary. It is also stated that the respondents had filed writ petitions in W.P.Nos.14226 and 14227 against the common order passed by the Tribunal and when those writ petitions were taken up, it was represented by them that arrears of salary had been paid to the petitioner, when actually it is not so.

2.With the above background, the present writ petition has been filed by the petitioner.

3.When this writ petition was taken up, the learned counsel for the petitioner has submitted that even though the Tribunal had directed the respondents to give posting to the petitioner and to pay him full salary from 10.04.2001 till the date of posting, the petitioner was not paid the arrears and further in the earlier writ proceedings, they have made false statement before this Court that arrears had been paid to the petitioner, leading to closure of those writ petitions.

4.This Court has also heard the learned Additional Govt.Pleader on the submissions made by the learned counsel for the petitioner.

5.A copy of the proceedings of the second respondent in Na.Ka. No.466/10/C dated 20.07.2010 addressed to the petitioner herein, finds place in the typed set of papers, in which it is stated that there is no record to show that the arrears of salary as ordered to be paid by the Tribunal has been paid to the petitioner. The Tribunal has passed the order on 16.09.2002 and till now, the arrears amount has not been disbursed to the petitioner. Even in the earlier writ proceedings, a false statement has been made leading to closure of those writ petitions. The proceedings of the second respondent stating that there is no record for payment of arrears to the petitioner, is dated 20.07.2010 and even that date is taken into consideration, about 9 years have elapsed and no action has been taken by the Department to pay the amount as ordered. This sort of practice adopted by the authorities cannot be countenanced.

6.In view of the above stated circumstances, the respondents are directed to pay the arrears as ordered by the Tribunal, to

the petitioner, with interest at 9% per annum which shall be applicable from the date of the order passed by the Tribunal in O.A.Nos.473 and 4963 of 2002, within a period of three weeks from the date of receipt of a copy of this order. The interest portion of 9% per annum shall be deducted from the salaries of the officials who were responsible for causing such delay, equally.

7.The writ petition is disposed of accordingly. No costs.

Post after three weeks for reporting compliance.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KM

To

1.The District Adi Dravidar and
Tribal Welfare Office, Salem.

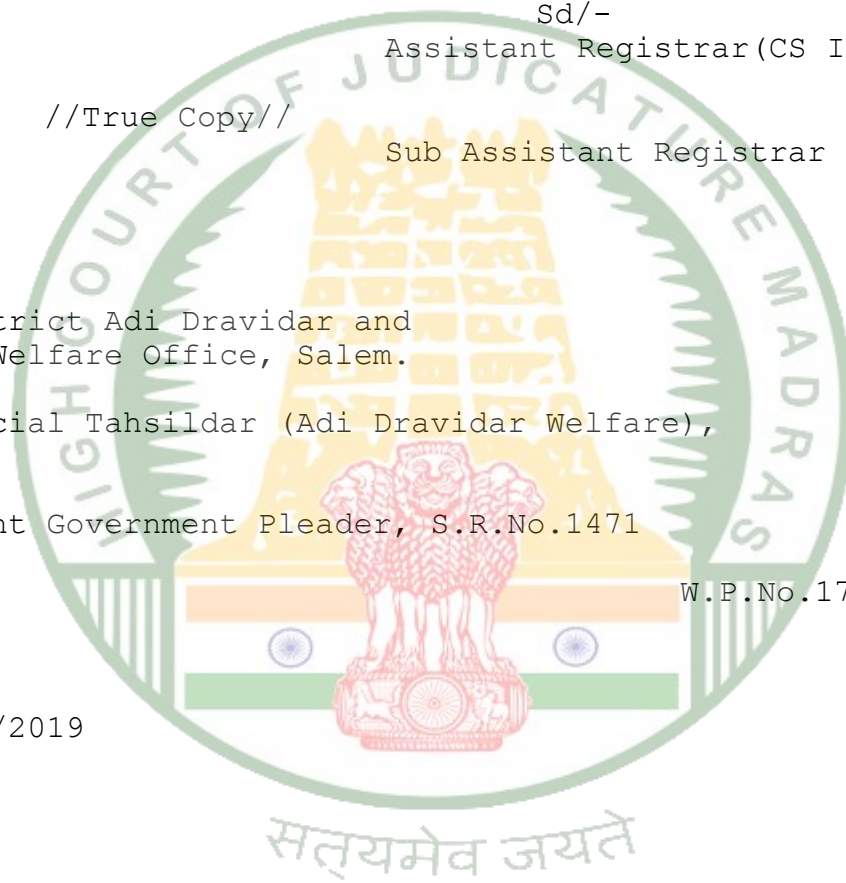
2.The Special Tahsildar (Adi Dravidar Welfare),
Salem.

+1cc to tht Government Pleader, S.R.No.1471

W.P.No.17873 of 2010

RV(CO)

rrs 12/02/2019



WEB COPY