

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.11397 of 2014

P.Sekar

.. Petitioner

Vs.

1.The Director of Animal Husbandry,
Central Office Building Part-II,
Chennai - 600 006.

2.The Regional Joint Director,
Animal Husbandry Department,
Kanchipuram.

3.The Assistant Director,
Animal Husbandry Department,
Madurantakam.

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 20.03.2012 in Ref.No.Na.Ka.No.65286/L1/09 passed by the first respondent and quash the same and consequently direct the respondents to reinstate the petitioner in the post of Live Stock Inspector with all the attended benefits, continuity of service and backwages.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.M.Karthikeyan

Additional Government Pleader

O R D E R

The prayer in the Writ Petition is for issuance of Writ of Certiorarified Mandamus to quash the order passed by the first respondent, dated 20.03.2012 and for direction to the respondents to reinstate the petitioner in the post of Live Stock Inspector with all the attended benefits, continuity of service and backwages.

2. The brief facts of the case are as follows:-

The petitioner was initially appointed as Flock Man in the Animal Husbandry Department through Employment Exchange in the year 1983. Thereafter, the second respondent called for application for the post of Veterinary Livestock Inspector in the year 1999. The petitioner applied for the said post and he was selected and after undergoing training, he was appointed as Veterinary Livestock Inspector. While so, the petitioner was placed under suspension on the allegation that he produced false certificate on 10.12.2001. A criminal case was also registered against the petitioner in C.C.No.2 of 2002, on the file of Judicial Magistrate, Kancheepuram. Aggrieved by the suspension order, the petitioner has filed Original Application in O.S.No.905 of 2002 before the Administrative Tribunal and the Tribunal, by an order dated 23.10.2002, revoked the petitioner's suspension and he was reinstated in service by the Department on 13.12.2002. Subsequently, the Department passed a final order, dismissing the petitioner from service by an order dated 11.04.2003. As against the dismissal order, the petitioner again preferred O.A.No.1608 of 2003 and the said Original Application was dismissed on 20.11.2003. Challenging the order passed by the Tribunal in O.A.No.1608 of 2003, the petitioner filed a Writ Petition before the Division Bench of this Court in W.P.No.19063 of 2004 and the Division Bench, by an order dated 16.02.2008, modified the punishment of dismissal and directed the respondent to revert back to the post of Flockman. In the meanwhile, the petitioner was convicted in Criminal Case in C.C.No.373 of 2004, on the file of Judicial Magistrate-I, Kancheepuram. Against the conviction, he preferred an appeal before the Principal Sessions Court, Chengalpattu in C.A.No.64 of 2010. In the meantime, the petitioner was placed under suspension from his service until further orders on 06.10.2009. Further, against suspension, the petitioner filed Writ Petition in W.P.No.21808 of 2009 and this Court, by an order dated 17.02.2010, quashed the suspension order dated 06.10.2009 and thereafter, the petitioner was reinstated in other place. While so, the learned Principal Sessions Judge, Chengalpattu allowed the Appeal in C.A.No.64 of 2010, on 23.12.2010, by setting aside the order passed by the learned Judicial Magistrate in C.C.No.373 of 2004. Thereafter, the petitioner by enclosing all the judgments, made representations to the respondents, seeking monetary benefits. Since the representations were not evoked any response, the petitioner is before this Court.

3. According to the learned counsel for the petitioner, the petitioner is entitled for service benefits, pensionary benefits and other terminal benefits and etc.,

4. The learned Additional Government Pleader would submit that this Court in W.P.No.19063 of 2004, modified the punishment of dismissal and pursuant to the order dated 16.02.2008, the

petitioner was reappointed for the post of Flockman. According to the learned Government Advocate, this Court passed the said order by considering the fact that the petitioner was not qualified for the post of Livestock Inspector and therefore, he was reverted back to the Flockman, subject to the outcome of the criminal case.

5. It is further submitted by the learned Additional Government Pleader that though the learned Principal Sessions Judge, Kancheepuram, set aside order passed by the learned Judicial Magistrate in C.C.No.373 of 2004, the petitioner is not entitled to be appointed to the post of Livestock Inspector, as he does not have S.S.L.C. qualification and hence, he was reappointed as Flockman and therefore, the prayer in the Writ Petition cannot be entertained.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner is not pressing the prayer sought for in the Writ Petition and only seeks benefit of service from the date of original appointment as Flockman.

7. According to the petitioner, his dismissal of service was set-aside by this Court, by an order dated 16.02.2008 and thereafter, he was reverted back to the post of Flockman. Therefore, the petitioner is entitled for the service benefits during the period he was not in service in view of the order of dismissal passed by the respondent-Department. I find some force in the contention of the learned counsel for the petitioner.

8. The learned Additional Government Pleader, on perusal of records, would submit that the petitioner was reappointed as Flockman pursuant to the order passed by this Court in W.P.No.19063 of 2004. Therefore, there is no dispute that the petitioner was reappointed as Flockman. So, the only dispute arise for consideration in this Writ Petition is whether the period of non continuity of service will be treated as continuity of service so as to get the retirement benefits to the petitioner.

9. Considering the orders passed by the Tribunal, Criminal Court as well as this Court and also considering the fact that the dismissal order passed by the second respondent was set aside by this Court and also considering the fact that the petitioner was reappointed as Flockman by the Department and on considering the facts and circumstances of the case, this Court is of the view that the petitioner is entitled for the continuity of service from the date of initial appointment as Flockman, so as to enable him to get retiral benefits, viz., service benefits, pensionary benefits and other monetary benefits and etc.,

10. In the light of the above, to the extent mentioned above, the impugned order is quashed and the Writ Petition is allowed, with a direction to the respondents to pay the retiral benefits to the petitioner, viz., service benefits, pensionary benefits and other monetary benefits an etc., by calculating the service from the date of initial appointment as Flockman and the same shall be paid by the respondents within a period of five months from the date of receipt of a copy of this order. There is no order as to costs.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

r n s

To

1. The Director of Animal Husbandry,
Central Office Building Part-II,
Chennai - 600 006.

2. The Regional Joint Director,
Animal Husbandry Department,
Kanchipuram.

3. The Assistant Director,
Animal Husbandry Department,
Madurantakam.

+1 CC to Mr. V. R. Kamalanathan, Advocate sr 29671.

+1 CC to Govt. Pleader sr 30496.

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W.P.No.11397 of 2014

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SP(30/04/2019)