

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 11.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.33790 of 2019

Rhines Nalla Ratnam

...Petitioner

Vs

1. The Commissioner,
Corporation of Greater Chennai,
Ribbon Building, Chennai - 600003.
 2. The Assistant Commissioner
(General Administration and Personnel),
Corporation of Greater Chennai,
Ribbon Building, Chennai - 600003.
 3. The Zonal Officer,
Zone - 15,
Corporation of Greater Chennai,
Sholinganallur, Chennai - 600119.
- ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to forthwith treat the suspension period from 26.02.2010 to 30.09.2010 as duty period and pay full salary for the suspension period and settle encashment of earned leave totaling 220 days together with interest at the rate of 24% per annum from 02.09.2014 till the date of realization.

For Petitioner : Mr.K.Raja

For Respondents: Mrs.Karthika Ashok

O R D E R

This writ petition has been filed seeking for a writ of mandamus, directing the respondents to treat the suspension period from 26.02.2010 to 30.09.2010 as a duty period and pay full salary for the said period.

2.It is seen from the records that the petitioner was appointed as a Lab Assistant in the year 1986 and subsequently,

he was promoted as a Junior Entomologist in the year 2007 and thereafter as a Senior Entomologist and ultimately, the petitioner attained superannuation on 30.06.2018.

3. When the petitioner was in service, disciplinary proceedings were initiated against him and the petitioner was kept under suspension for the period from 26.02.2010 to 30.09.2010. The petitioner was also paid subsistence allowance at the rate of 50%. The disciplinary proceedings ended up with a punishment of stoppage of increment for a period of six months with cumulative effect. By virtue of this punishment, the suspension period from 26.02.2010 to 30.09.2010 was adjusted against the petitioner's earned leave.

4. This order was challenged by the petitioner by filing an appeal before the first respondent. The first respondent, by an order dated 02.09.2014, had set aside the punishment imposed against the petitioner. According to the petitioner, by virtue of this order passed in the appeal, the petitioner has been exonerated from the charges and therefore, he is entitled for full salary during the suspension period, by treating it as a duty period. The petitioner made a representation on 26.08.2019 in this regard. Since there was no response, a legal notice was also issued subsequently on 16.09.2019, seeking for the full salary. This also did not evoke any response from the respondents and therefore, the present writ petition has been filed before this Court.

5. Heard Mr.K.Raja, learned counsel appearing for the petitioner and Mrs.Karthika Ashok, learned counsel appearing for the respondents.

6. The short issue that requires consideration of the first respondent is the manner in which the suspension period from 26.02.2010 to 30.09.2010 must be treated. This was the period when the petitioner was under suspension, pending disciplinary proceedings. The petitioner was paid 50% subsistence allowance during this period. The disciplinary proceedings ended up in punishment of stoppage of increment for a period of six months with cumulative effect. The petitioner filed an appeal and the first respondent, by an order dated 02.09.2014, had set aside the punishment. According to the petitioner, the petitioner was exonerated from the charges and he is pitching his right under F.R. 54 and seeking for full pay and allowance during the suspension period, by treating it as duty period. The petitioner wants the full salary for the relevant period, after adjusting the subsistence allowance, which has already been paid to him.

7. In the facts and circumstances of this case, there shall be a direction to the first respondent to consider the claim

made by the petitioner and pass appropriate orders, within a period of 4 weeks from the date of receipt of a copy of this order, strictly in accordance with law. If the petitioner is found to be entitled for the full salary for the suspension period, the payment shall be made, after adjusting the subsistence allowance paid for the relevant period and the earned leave of the petitioner should not be adjusted towards this suspension period. The petitioner is directed to give a fresh representation to the first respondent along with a copy of this order.

8.This writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Commissioner,
Corporation of Greater Chennai,
Ribbon Building, Chennai - 600003.
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(General Administration and Personnel),
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Zone - 15,
Corporation of Greater Chennai,
Sholinganallur,
Chennai - 600119.

+1cc to Mr.K.Raja, Advocate Sr.103598
+1cc to M/s.Karthikaa Ashok, Advocate Sr.103255

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ssd[co]
srg 08/01/2020