



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.9578 of 2013
and
W.M.P. (MD)No.14407 of 2016

S.Duraisamy

... Petitioner

vs.

1.The Secretary to the Government,
Social Welfare and Nutritious Meal
Programme Department,
Fort St.George, Chennai - 600 009.

2.The District Collector,
Pudukottai District, Pudukottai - 622 005.

3.The Commissioner,
Gandarvakottai Panchayat Union,
Gandarvakottai,
Pudukottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to pay the arrears of salary to the petitioner between the period from 17.04.2010 to 06.06.2011 for his service as Noon Meal Organizer in Aathankarai Viduthi Panchayat Union with all the monetary benefits, including bonus and all other attendant benefits within the time frame as may be fixed by this Court.

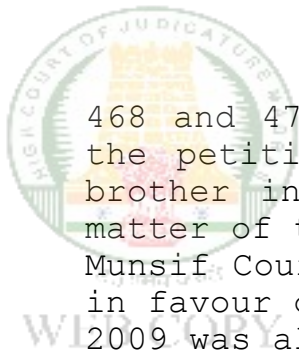
For Petitioner :Mrs.P.Jessi Jeeva Priya

For R1 to R3 : Mr.D.Muruganandam
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus, to direct the respondents to pay arrears of salary to the petitioner for the period during which the petitioner was placed under suspension.

2.The petitioner was working as Noon Meal Organizer. Pursuant to a criminal case registered against the petitioner in Cr.No.2 of 2010 on the file of the District Crime Branch, Pudukottai, punishable for offences under Sections 419, 420, 467,



468 and 471 of IPC, the petitioner was arrested. It is stated by the petitioner that the said criminal complaint was given by his brother in connection with a civil dispute, which is the subject matter of the suit in O.S.No.353 of 2007 on the file of the District Munsif Court, Pudukottai. It is further stated that the suit ended in favour of the petitioner and the appeal preferred in A.S.No.97 of 2009 was also dismissed.

3.In view of the arrest of the petitioner, it is admitted that the petitioner was suspended from service. It is admitted that in a Writ Petition filed by the petitioner in W.P.(MD)No.7492 of 2010, the order of suspension was set aside. It is not in dispute that the petitioner was thereafter, reinstated into service. However, the salary for the petitioner for the period, during which he was placed under suspension (17.04.2010 to 06.06.2011) was not paid to the petitioner. Despite a representation being given by the petitioner, on 08.01.2012, no amount was paid to the petitioner. Hence, it is stated that the petitioner was constrained to file the above writ petition.

4.The learned Additional Government Pleader submitted that the period of suspension can be regularised only after the outcome of the criminal proceedings. It is admitted that the petitioner was permitted to retire from service on the afternoon of 31.08.2014. It is also submitted that the petitioner was paid all benefits on par with other Noon Meal Organizers. In the said circumstances, it is improper to withhold the money payable to the petitioner during the period of suspension. It is also admitted that no departmental proceeding was initiated against the petitioner for his involvement in any of the criminal case. In such circumstances, it is not appropriate to deny regularisation of the period of suspension and to pay salary to the petitioner for the period of suspension. After retirement, it is not possible for the respondents to initiate any disciplinary action.

5.In the said circumstances, the Writ Petition is allowed and the respondents are directed to disburse the salary to the petitioner for the period from 17.04.2010 to 06.06.2011 for his service as Noon Meal Organizer and regularise the period and pay the consequential monetary benefits within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Secretary to the Government,
Social Welfare and Nutritious Meal
Programme Department,
Fort St.George, Chennai - 600 009.

2.The District Collector,
Pudukottai District, Pudukottai - 622 005.

3.The Commissioner,
Gandarvakottai Panchayat Union,
Gandarvakottai,
Pudukottai District.

+1 CC to M/s.SPL GP (SR-96351[F] dated 06/11/2019)

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-96289[F] dated
06/11/2019)

W.P. (MD) No.9578 of 2013
05.11.2019

JMN(14.11.2019) 3P : 6C