



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2019

CORAM :

WEB COPY

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P(MD)No.10285 of 2014**

**and**

**M.P. (MD) .No.1 of 2014**

V.Vijayalakshmi

... Petitioner

Vs.

1.The District Elementary Educational Officer,  
Thanjavur, Thanjavur District.

2.The Additional Assistant Elementary  
Educational Officer,  
Kumbakonam,  
Thanjavur District.

... Respondents

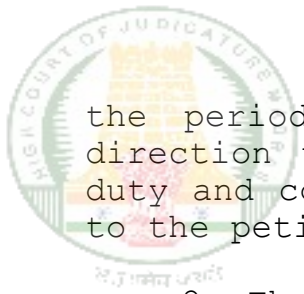
**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent in his proceedings in Na.Ka.857/Aa2/2011, dated 08.10.2013 and the consequential order passed by the 2<sup>nd</sup> respondent in his proceedings Na.Ka.No.2152/A3/2011, dated 08.05.2014 and quash the same insofar as the denial of treating the period of suspension as one of duty and to treating the period of suspension as one of earned leave and direct the respondents to treat the period of suspension as duty and confer all the consequential monetary and other benefits to the petitioner.

For Petitioner : Mr.V.Panneer Selvam  
for M/s.C.S.Associates

For respondents : Mr.N.Shanmugaselvam,  
Additional Government Pleader

**ORDER**

This Writ Petition has been filed by the petitioner challenging the order passed by the first respondent in his proceedings in Na.Ka.857/Aa2/2011, dated 08.10.2013 and the consequential order passed by the 2<sup>nd</sup> respondent in his proceedings Na.Ka.No.2152/A3/2011, dated 08.05.2014 denying to treat the period of suspension of the petitioner as one of "duty period" and treating



the period of suspension as one of "earned leave", and for a direction to the respondents to treat the period of suspension as duty and confer all the consequential service and monetary benefits to the petitioner.

2. The learned counsel for the petitioner submitted that while the petitioner was working as Headmaster of Middle School at Neerathanallur, Kumbakonam Union, a student committed suicide and a complaint was lodged on 12.02.2011 alleging that due to abusive words of the petitioner, the said student committed suicide. In view of the registration of FIR, the petitioner was placed under suspension on 12.02.2011. Aggrieved by the order of suspension, the petitioner has filed W.P.(MD).No.4467 of 2011 and as per the order of this Court, dated 19.04.2011, the order of suspension was cancelled on 03.06.2011 and she was reinstated on 15.06.2011. Thereafter, the petitioner has challenged the criminal case, which was pending in P.R.C.No.13 of 2012, before this Court in CrI.O.P. (MD).No.3775 of 2012 and this Court has quashed the same, by order dated 03.01.2013. However, the petitioner has given a sum of Rs.3,20,000/- as a gesture to the defacto complainant. Though the petitioner has requested the respondents to treat the suspension period of the petitioner as duty period, the first respondent, by the impugned order dated 08.10.2013, treated the period of suspension as one of "Earned Leave" and the 2<sup>nd</sup> respondent by the impugned order dated 05.04.2014 has passed the consequential order and accordingly, fixed the pay of the petitioner. He would further submit that as per Ruling IX under Rule 54(B) of the Fundamental Rules of the Tamil Nadu Government Servant, the suspension period of the petitioner should be treated as duty period and she is entitled to the monetary benefits also. As the impugned orders treating the period of suspension as Earned Leave period is against the said Fundamental Rules, the impugned orders are liable to be set aside. Thus, he prayed to allow this writ petition.

3. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner has not denied the occurrence at any point of time and he has also paid Rs.3,20,000/- to the family of the victim as compensation and as there is a prima face case against the petitioner, the respondents have declared the suspension period of the petitioner as Earned Leave period. He would further submit that as per Ruling 11 of Rule 54(B) of the Fundamental Rules, the suspension period of the delinquent employee can be treated as duty, if there is a specific order or direction of a Court or competent jurisdiction to that effect or otherwise, the period of suspension shall be treated only as eligible leave. Therefore, the impugned orders need not be interfered with. Thus, he prayed to dismiss this writ petition.

4. Heard both sides and perused the records carefully.



5. Admittedly, in this case, it is not in dispute that the criminal case, based on which the petitioner was suspended, was quashed by this Court in Crl.O.P.(MD).No.3775 of 2012, vide order dated 03.01.2013. The suspension order was also revoked on 15.06.2011 based on the order of this Court. Merely because the petitioner has given a sum of Rs.3,20,000/- to the family of the victim, it cannot be concluded that the petitioner has accepted his guilt and it cannot be a ground for rejecting the claim of the petitioner to treat the suspension period as duty period.

6. In similar circumstances, a learned Single Judge of this Court in the case of R.Panner Selvam Vs. State of Tamil Nadu and another, in W.P.No.31174 of 2006, dated 14.07.2008, has held as under:

"5.The learned counsel appearing for the petitioner had submitted that Ruling IX under Rule 54(B) of the Fundamental Rules of the Tamil Nadu Government, reads as follow:

"9. Where a Government servant is,

(a) placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(b) dismissed or removed from service or compulsorily retired on the ground of conduct which has led to his conviction on a criminal charge and

the Government servant is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, or on the ground that he has been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, dismissed or removed or compulsorily retire from service. "Accordingly, the period of suspension of the petitioner should be treated as duty period for all purposes and he should be paid the full pay and allowances which he is entitled to.

6. The learned counsel appearing on behalf of the respondents had not refuted the claims made by the petitioner, either by oral submissions or by placing the relevant rules applicable to the petitioner. Further, nothing has been shown by the learned counsel for the respondent to disprove the claims made by the petitioner and to reject his

in the present writ petition as unsustainable



and contrary to the Rules applicable to the petitioner. In such circumstances, the writ petition stands allowed."

7. In this case, as stated earlier, the petitioner was suspended only for registration of the criminal case and the said criminal case was quashed by this Court and he was reinstated in service. As per Ruling IX of Rule 54(B) of the Tamil Nadu Fundamental Rules, the petitioner is entitled to get full pay and allowances. When Ruling IX of Rule 54(B) is very clear, the respondents denied the claim of the petitioner based on Ruling XI of Rule 54(B), which cannot be accepted. Hence, this Court is inclined to set aside the impugned orders dated 08.10.2013 and the consequential order dated 08.05.2014 and to direct the respondents to treat the period of suspension of the petitioner as duty period and to get consequential benefits.

8. In view of the above, the impugned orders are set aside and the respondents are directed to treat the suspension period of the petitioner as duty period and confer all the service and monetary benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

9. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg

To

1.The District Elementary Educational Officer,  
Thanjavur, Thanjavur District.

2.The Additional Assistant Elementary  
Educational Officer,  
Kumbakonam, Thanjavur District.

+1 CC to M/s.M/S.V.PANNEER SELVAM, Advocate ( SR-105169[F]

+1 CC to M/s.SPL.GP ( SR-105272[F] dated

W.P(MD)No.10285 of 2014  
13.12.2019

GRL(CO)

TR(23.01.2020) 4P 5C

<https://hcservices.ecourts.gov.in/hcservices/>