



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.12.2019
CORAM :**

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P(MD)No.8700 of 2014
and
M.P.(MD).No.1 of 2014**

R.Balan

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Ramanathapuram.

2.The Additional Assistant Elementary
Educational Officer,
Kadaladi Union,
Ramanathapuram District.

... Respondents

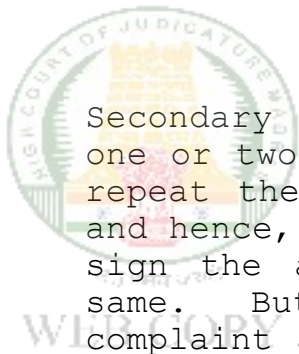
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent in Na.Ka.700/A4/2013, dated 21.11.2013 and in Na.Ka.700/A4/2013, dated 11.03.2014 and the consequential order passed by the 2nd respondent in Na.Ka.No.862/A2/2013, dated 04.04.2014 and quash the same and direct the respondents to treat the suspension period of the petitioner as duty and confer all 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 Na.Ka.700/A4/2013, dated 21.11.2013 and in Na.Ka.700/A4/2013, dated 11.03.2014 and the consequential order passed by the 2nd respondent in Na.Ka.No.862/A2/2013, dated 04.04.2014 and for a direction to the respondents to treat the suspension period of the petitioner as duty and confer all the consequential benefits to him.

2. The learned counsel for the petitioner submitted that while the petitioner was working as Headmaster of Elementary School at Narasingakotam Village, one Murugeswari who was working as



Secondary Grade Teacher in the same school used to come lately by one or two hours and the petitioner advised the said teacher not to repeat the same. On 20.02.2013 the said teacher again came lately and hence, the petitioner informed that she will not be permitted to sign the attendance for the morning session, if she repeats the same. But, she quarreled with the petitioner and gave a Police complaint against the petitioner on 20.02.2013. The Police, without conducting any enquiry, arrested the petitioner and remanded him to judicial custody on 20.02.2013. The petitioner, thereafter, came out on bail. As the petitioner was under detention for more than 48 hours, he was placed under suspension on 22.02.2013. On 07.08.2013, the petitioner was acquitted from the criminal case in C.C.No.97 of 2013 and on that basis, the petitioner's suspension was revoked and he was reinstated in service on 30.08.2013. In the meantime, the respondents issued a memo calling for explanation as to why he acted against Rule 20(1) of the Tamil Nadu Government Servant Conduct Rules by quarrelling with the other teacher in the school hours. The petitioner submitted a detailed reply. Though the petitioner stated in his reply that the said teacher was in the habit of attending school lately and she only quarreled with him, the first respondent has passed the impugned order dated 21.11.2013 imposing "Censure" as a punishment on the petitioner. He would further submit that as the impugned order dated 21.11.2013 has been passed, without considering the explanation given by the petitioner, issuing any memo to the said teacher, getting any explanation from the said teacher and conducting any enquiry, the impugned order of punishment is liable to be set aside.

3. The learned counsel for the petitioner would next submit that on 11.03.2014, the first respondent has passed the second impugned order treating the suspension period of the petitioner as eligible leave period and on 04.04.2014, the 2nd respondent has passed consequential order. 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 he is entitled to the monetary benefits. The impugned orders treating the period of suspension as leave period is against the said Fundamental Rules and therefore, the said orders are liable to be set aside. Thus, he prayed to allow this writ petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that the allegation levelled against the petitioner in the criminal complaint is that in front of students and general public, he had beaten the Teacher by name Murugeswari and thereby, he failed to maintain absolute integrity. The acquittal of the petitioner by a criminal Court would not preclude the respondents from taking action under disciplinary proceedings. Considering the whole issue and not satisfying with the explanation submitted by the petitioner, the first respondent has imposed



submit that as per Ruling 11 of Rule 54(B) of the Fundamental Rules, the suspension period of the delinquent employee shall be treated as duty, if there is a specific order or direction of a Court of 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.

5. Heard both sides and perused the records carefully.

6. Admittedly, it is not in dispute that there was a quarrel between the petitioner and one Teacher by name Murugeswari in the school hours and the petitioner is alleged to have used unparliamentary words and slapped the said teacher and the said teacher lodged a criminal complaint against the petitioner and the petitioner was under detention for more than 48 hours. But, the said criminal case ended in acquittal. Based on the very same allegation, the first respondent issued a memo to the petitioner stating that the act of the petitioner is against Rule 20(1) of the Tamil Nadu Government Servant Conduct Rules, 1973. The petitioner gave his explanation denying the allegations and stating that it is the said teacher who quarreled with him. It is not in dispute that both the petitioner as well as the other teacher were working as a Government Servant and they are duty bound to maintain their conduct as per the Tamil Nadu Government Servant Conduct Rules. A perusal of the impugned order of punishment dated 21.11.2013 shows that no explanation has been obtained from the said teacher, who lodged the criminal complaint against the petitioner, in respect of the explanation given by the petitioner. In other words, it can be construed that the explanation given by the petitioner has not at all been considered by the first respondent.

7. As rightly stated by the petitioner, no enquiry seems to be conducted and only based on the report of the officials, the first respondent has imposed the punishment on the petitioner. As there is a violation of principles of natural justice and as the explanation given by the petitioner has not been considered by the first respondent before passing the impugned order of punishment and the petitioner alone has been imposed with punishment without any enquiry, this Court is inclined to set aside the impugned order dated 21.11.2013.

8. Now, let us analyse the issue as to whether the suspension period of the petitioner is to be treated as duty period or not. When the similar issue arises for consideration, 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,

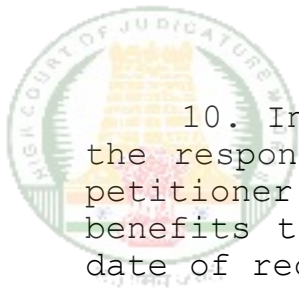
(a) placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(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 prayer in the present writ petition as unsustainable and contrary to the Rules applicable to the petitioner. In such circumstances, the writ petition stands allowed."

9. In this case, the petitioner was under suspension, in view of the registration of the criminal case. He was reinstated in service after acquittal from the criminal case. 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 11.03.2014 and the consequential order dated 04.04.2014 and to direct the respondents to treat the period of suspension of the petitioner as duty period and to get consequential benefits.



10. 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.

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

Sd/-

Assistant Registrar (writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg

To

1.The District Elementary Educational Officer,
Ramanathapuram.

2.The Additional Assistant Elementary
Educational Officer,
Kadaladi Union,
Ramanathapuram District.

+1 CC to Mr.V.PANNEER SELVAM, Advocate (SR-105170[F] dated
16/12/2019)

+1 CC to SPL.GP (SR-105276[F] dated 17/12/2019)

W.P(MD)No.8700 of 2014
13.12.2019

MK (22.01.2020) 5P 5C