

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 07.06.2019****CORAM:****THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM****W.P. (MD) No. 4685 of 2011****WEB COPY**

K. Subban

... Petitioner

vs.

1. The Secretary to Government
Rural Development (E4) Department
Secretariat, Chennai-9
2. The Commissioner
Rural Development and
Directorate of Panchayat
Panagal Building
Saidapettai, Chennai-600 015
3. The Accountant General
Office of the Accountant General
Chennai-18
4. The District Collector
Tiruchirappalli District
Tiruchirappalli
5. The Assistant Director
Rural Development and Directorate of Panchayat
Tiruchirappalli District
6. The Commissioner
Vaiyampatti Panchayat Union
Manapparai Taluk
Tiruchirappalli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned orders passed by the fourth respondent in his proceeding in Na.Ka.Tha.3/16847/2008 dated 21.01.2009 and consequently the 2nd respondent in his proceeding in Na.Ka.97342/08/Pension.2 dated 05.02.2009 and quash the same as illegal and to direct the respondents to sanction a compassionate allowance to the petitioner in considering Rule 40(1) as per the Rule 82 of Tamil Nadu Pension Rules 1978 as well as in the light of G.O.Ms.No.471 of Home (Pol.9) Department dated 12.06.2009.

For Petitioner : No appearance

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader

for R1, R2, R4 & R5

Mr.P.Gunasekaran for R3

Mr.C.Arun for R6

**ORDER**

The writ petitioner admittedly was removed from service, pursuant to the order of conviction imposed by the competent criminal Court of law. The order of conviction reached its finality and therefore, the retirement benefits were forfeited in accordance with Rule 21 of the Tamil Nadu Pension Rules, 1978. The writ petitioner seeks relaxation of the Rules, which cannot be granted by the Court.

2. The power of relaxation cannot be exercised in a routine manner. It is to be exercised sparingly and to mitigate the injustice, if any caused to an employee or class of employees. Relaxation can never be claimed as a right nor it can be extended for the benefit of extending favouritism. Grant of relaxation is not a routine affair. It is an exception to be exercised on exceptional circumstances. Thus, the Rule provides the power of relaxation in order to rectify the mistakes or injustice, if any caused to the employee. Mere grant of relaxation in favour of one employee cannot be a ground to seek similar relaxation by the other employees. Relaxation of rules in favour of certain individuals can never be claimed as precedent for the purpose of claiming the similar benefit of relaxation by way of right. It can never be claimed as a matter of right. Each case is to be scrutinized with reference to the hardship caused to the employee concerned. This being the principles to be followed, the writ petitioner, who was arrayed as accused and convicted in a criminal case and removed from service, is undoubtedly not entitled to claim any relaxation as per the rules in force. Thus, the relief sought for in the present writ petition is devoid of merits and accordingly, the impugned orders passed by the respondents 2 and 4 are confirmed.

3. Thus, the writ petition stands dismissed. No costs.

sd/
Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(cs)

To

1.The Secretary to Government,
Rural Development (E4) Department,
Secretariat, Chennai-9.

2.The Commissioner,
Rural Development and
Directorate of Panchayat,
Panagal Building,
Saidapettai, Chennai-600 015.



3. The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

4. The Assistant Director,
Rural Development and Directorate of Panchayat,
Tiruchirappalli District.

5. The Accountant General
Office of the Accountant General
Chennai-18

6. The Commissioner
Vaiyampatti Panchayat Union
Manapparai Taluk
Tiruchirappalli District

+1 CC to SPL GP (SR-67631[F] dated 10/06/2019)

+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-67984[F] dated 11/06/2019)

W.P. (MD) No.4685 of 2011
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MK (24.06.2019) 3P 9C