



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD)No.4215 of 2013

and

M.P.(MD)No.1 of 2013

S.Kodeeswaran

... Petitioner

-Vs-

1.The Deputy Inspector of Police,
Dindigul Zone,
Dindigul.

2.The Superintendent of Police,
Theni District, Theni.

3.The Deputy Superintendent of Police,
Bodi Circle,
Theni District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for both the Memorandum in PR04/F1/2008 dated 21.03.2012 and leave settlement of suspension period - order in D.O.No./971/2012 / C.No.L1/LR2132/24872/12 dated 10.09.2012 and quash the same as illegal consequently direct the second respondent shall be treat the suspension period as on duty and dispose the entire benefits of the petitioner.

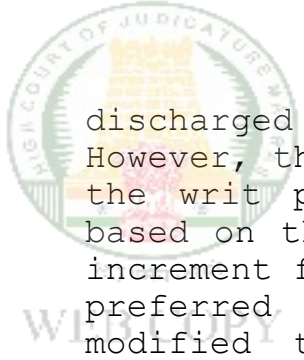
For Petitioner
For Respondents

: Mr.G.Thiruvavutselvan
: Mr.M.Jeyakumar
Additional Government Pleader

ORDER

The order dated 21.03.2012 as well as the consequential order dated 10.09.2012 are under challenge in this writ petition.

2. The writ petitioner, who was holding the post of Special Sub Inspector, was placed under suspension on account of registration of a criminal complaint in Crime No.16 of 2007 under Sections 342, 355, 323 and 506(ii) IPC and Section 4 of TNPHW Act. Consequential departmental proceedings were also initiated against the writ petitioner. In the criminal case the writ petitioner was



discharged on account of the compromise entered between the parties. However, the departmental disciplinary proceedings initiated against the writ petitioner was continued and the disciplinary authority based on the enquiry report, imposed the punishment of stoppage of increment for three years without cumulative effect. The petitioner preferred an appeal before the Appellate Authority, who in turn modified the punishment and reduced the same as stoppage of increment for one year without cumulative effect.

3. The learned counsel for the petitioner states that the period of suspension is to be treated as duty, in view of the fact that the petitioner imposed with the punishment of stoppage of increment for one year without cumulative effect. This apart, the learned counsel relied on the judgment of the Hon'ble Division Bench of this Court in W.P.(MD)No.37403 of 2007 dated 23.04.2010.

4. The learned Additional Government Pleader appearing on behalf of the respondent states that the writ petitioner was imposed with an order of punishment. Therefore, the period of suspension is to be treated as leave and it cannot be treated as duty with full salary. In the event of exoneration from the charges or dropping the charges, the suspension period can be treated as duty and not otherwise.

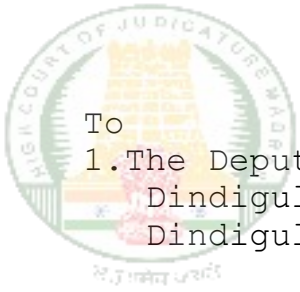
5. The facts and circumstances in respect of the judgment cited by the writ petitioner dated 23.04.2010 are not similar to that of the present case on hand. In the case before the Division Bench, the order of suspension was revoked and there was no reference in respect of the punishment imposed on the delinquent employee. Thus, the case cited by the learned counsel for the writ petitioner cannot be relied for the purpose of granting relief to the writ petitioner.

6. The legal principle settled in this regard is that on initiation of disciplinary proceedings, if the charges are dropped against the Government employee, then he is undoubtedly entitled to get full salary and period of suspension has to be treated as duty. If any punishment is imposed in the disciplinary proceedings, then it is the discretion of the authorities to regulate the period of suspension as leave is applicable in the manner known to rules. Therefore, there is no infirmity in respect of the orders passed by the respondents. Accordingly, the writ petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //



To

1.The Deputy Inspector of Police,
Dindigul Zone,
Dindigul.

2.The Superintendent of Police,
Theni District, Theni.

3.The Deputy Superintendent of Police,
Bodi Circle,
Theni District.

+1cc to M/s.Special Government Pleader,SR.No. 66458

W.P. (MD) No.4215 of 2013
12.06.2019

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