

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12474 of 2013

K.Thangaraj

... Petitioner

Vs.

1. The Chairman,
Food Corporation of India,
16-20, Barakhmka Lane,
New Delhi - 110 001.
2. The Executive Director (Zone),
Food Corporation of India,
Zonal Office (South),
No.3, Haddows Road,
Chennai - 600 006.
3. General Manager (South)
Food Corporation of India,
Zonal Office,
No.3, Haddows Road,
Chennai - 600 006.
4. The General Manager (PE)
Food Corporation of India,
Head Office,
16-20, Barakhmka Lane,
New Delhi - 110 001.
5. The General Manager / C (TN) & Disc. Authority,
Food Corporation of India,
Regional Office,
No.5/54, Greams Road,
Chennai - 500 006.
6. The Deputy General Manager (PER/IRS)
Food Corporation of India,
Zonal Office,
No.3, Haddows Road,
Chennai - 600 006.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in connection with the order No.4 (6) 99 Vol-III dated 14.12.2005 passed by the General Manager /C (TN) & Disc. Authority Chennai, the 5th respondent herein, Order No.32/87/2002/SZ/ZE.I/1402 dated 02.08.2010 passed by the General Manager (PE) New Delhi the 4th respondent herein and order LR No.IR(s) 14(1) representation SC/ST Vol-II dated 05.04.2013 passed by the Deputy General Manager (PER/IRs) the 6th respondent herein and quash the same and consequently direct the General Manager (c) (TN) and Disciplinary Authority the 5th respondent herein to regularise absent period of the petitioner from 24.09.1999 to 01.07.2003 as duty on par with the other employees like T.Subramanian, K.Munusamy and P.Vadivel with all consequential benefits.

For Petitioner : Dr.R.Sampathkumar
For Respondents : Mr.M.Karthikeyan

O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records in connection with Order No.4 (6) 99 Vol-III dated 14.12.2005 passed by the General Manager /C (TN) and Disciplinary Authority, Chennai, the fifth respondent, Order No.32/87/2002/SZ/ZE.I/1402 dated 02.08.2010 passed by the General Manager (PE), New Delhi the fourth respondent and Order LR No.IR(s) 14(1) representation SC/ST Vol-II dated 05.04.2013 passed by the Deputy General Manager (PER/IRs), the sixth respondent and to quash the same and to consequently direct the General Manager (c) (TN) and Disciplinary Authority, the fifth respondent to regularise absent period of the petitioner from 24.09.1999 to 01.07.2003 as duty on par with the other employees like T.Subramanian, K.Munusamy and P.Vadivel with all consequential benefits. सत्यमेव जयते

2.The case of the petitioner is that the petitioner was appointed as Watchman in the respondent Department and retired as Assistant Grade - III (Gen.) on 31.01.2013. The petitioner was a member in the SC/ST Employees Welfare Association along with other SC/ST members. There was agitation organized by the said Association during the year 1999 and the petitioner was one among the other employees who were involved in the agitation. The petitioner was suspended on 24.09.1999 along with other employees who were involved in the agitation.

3.It is the further case of the petitioner that the petitioner, along with the other employees, was removed from

service on 05.06.2000 and the same was brought to the knowledge of the Chairman of the SC/ST Commission, who in turn vide letter dated 02.08.2002 recommended to reinstate all the employees including the petitioner into service. Thereafter, they were reinstated into service. However, the period during which the petitioner was under suspension was not regularized.

4.It is the further case of the petitioner that the petitioner made representation to the respondents seeking to treat the period during which the petitioner was under suspension as 'duty period' and since the same was not considered, he filed W.P.No.38305 of 2005 before this Court. Thereafter, since the sixth respondent agreed to regularise the suspension period and requested the petitioner to withdraw the writ petition, the petitioner had withdrawn W.P.No.38305 of 2005 on

18.06.2008. However, the period during which the petitioner was under suspension was not regularized.

5.It is the further case of the petitioner that the petitioner again made representation to the respondents seeking to treat the period during which the petitioner was under suspension as 'duty period'. The petitioner also preferred appeal before the respondents. However, even after the very many efforts taken by the petitioner, no order was passed regularizing the period during which the petitioner was under suspension. Hence, this writ petition.

6.The learned counsel appearing for the petitioner would submit that though the suspension period of all the other employees who were involved in the agitation were regularized, the period during which the petitioner was under suspension was not regularized. The petitioner alone was discriminated.

7.The learned counsel appearing for the petitioner would further submit that even the Deputy General Manager (IR-S) for General Manager (South) vide communication dated 20.01.2012 addressed to the Deputy General Manager (ZE), Food Corporation of India, Head Quarters, New Delhi, had requested the Deputy General Manager (ZE) to re-examine the case of the petitioner in the light of the decision taken in respect of similarly placed persons like T.Subramanian, K.Munusamy and P.Vadivel, however, the said communication was also not considered and the request made by the petitioner was rejected vide order dated 05.04.2013. Accordingly, he prayed for allowing the writ petition.

8.The learned counsel appearing for the respondents would submit that the case of the petitioner cannot be compared with the case of the other employees who were involved in the

agitation. Only after examining the case of the petitioner in detail, the order dated 05.04.2013 came to be passed. Accordingly, he prayed for dismissal of the petitioner.

9.This Court perused the order dated 05.04.2013. In the order dated 05.04.2013, there is no discussion about any facts. It is mechanically stated that considering the facts of the case, the Board has rejected the appeal of the petitioner. Hence, this Court is of the opinion that the order dated 05.04.2013 is a non-speaking order.

10.In view of the above, this Court remands the matter back to the respondents for considering the case of the petitioner afresh, in the light of the communication of the Deputy General Manager (IR-S) for General Manager (South) dated 20.01.2012 addressed to the Deputy General Manager (ZE), Food Corporation of India, Head Quarters, New Delhi, requesting the Deputy General Manager (ZE) to re-examine the case of the petitioner in the light of the decision taken in respect of similarly placed persons like T.Subramanian, K.Munusamy and P.Vadivel.

11.The writ petition is allowed on the above terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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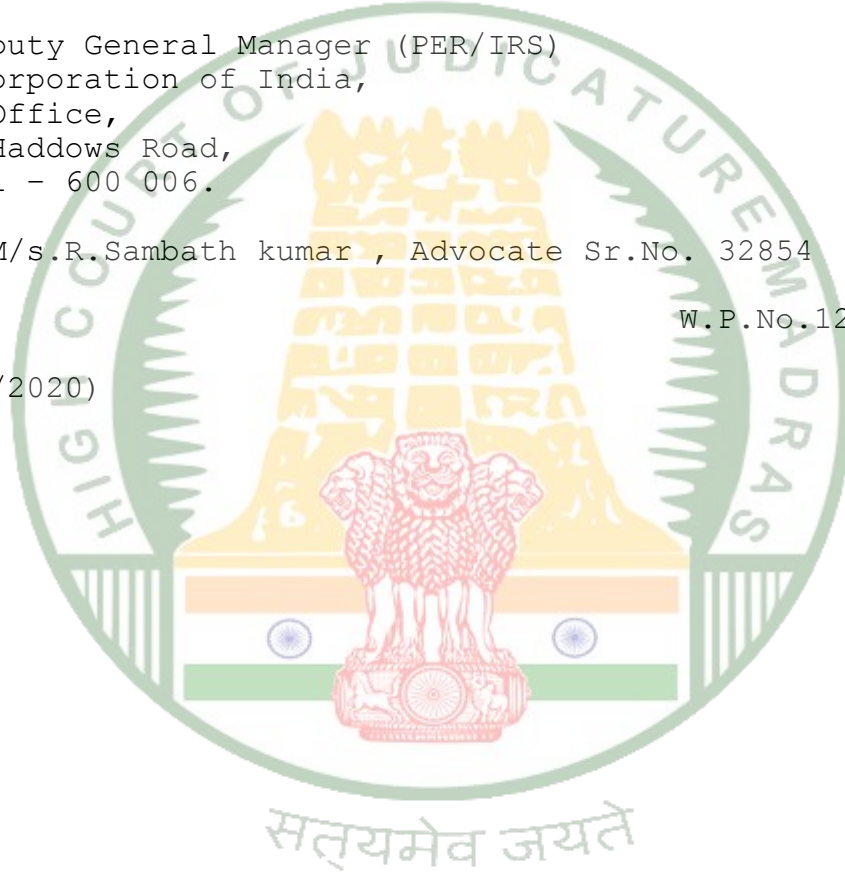
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+1 cc to M/s.R.Sambath kumar , Advocate Sr.No. 32854

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BR(CO)
RMP(09/11/2020)



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