



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.1495 of 2013

V.Ravi .. Petitioner
Vs.

1. The Additional Director General /
Inspector General of Police,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.
2. The Deputy Inspector General of Prisons,
Coimbatore Range,
Coimbatore.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Superintendent of Prisons,
Central Prison,
Vellore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records in the order bearing No.5317/Ki/C.1/2012, dated 13.12.2012, issued by respondent No.3 and quash the same and direct the respondent No.4 to pay the petitioner arrears of salary for the period from 06.01.2004 to 30.11.2010, in accordance with law.

For Petitioner : Mr.M.Radhakrishnan

For Respondents: Mr.S.Thangavel
Special Government Pleader

O R D E R

Writ petition has been filed challenging the show cause notice dated 13.12.2012, issued by the fourth respondent herein and for a direction to treat the absence of duty of the petitioner as leave without salary.

2. The petitioner was working as Grade II Warden in the Sub Jail, Namakkal. Earlier, a disciplinary proceedings were initiated against him and on 06.01.2004, he was removed from service on certain charges by the Appointing Authority. The



appeal filed by the petitioner was dismissed by the second respondent and on a revision filed by the petitioner, the first respondent by an order dated 28.10.2010, modified the punishment from dismissal from service to reduction of pay by three stages for three years with cumulative effect, without affecting his pension. Subsequently, the petitioner joined the service on 01.12.2010. Now, the impugned show cause notice dated 13.12.2012, has been issued by the fourth respondent seeking explanation from the petitioner as to why the unemployment period from 06.01.2004 to 30.11.2010, may be regularised as leave on loss of pay. Challenging the same, present writ petition has been filed.

3. Counter has been filed by the respondents. Since the charges leveled against the petitioner was proved, punishment alone was modified from dismissal from service to reduction of pay to three stages for three years with cumulative effect and hence the petitioner is not entitled for the benefit of treating the period of absence as spent on duty as per Rule 54 (5) of the Fundamental Rules.

4. Mr.M.Radhakrishnan, learned counsel appearing for the petitioner would contend that as per Rule 54(5) of the Fundamental Rules, the Authorities have discretion to treat the period of absence as a period spent on duty. The learned counsel submitted that the petitioner may be permitted to submit a representation to the authorities for treating the period mentioned in the Show Cause Notice as a period spent on duty.

5. Considering the limited prayer sought for by the petitioner, without going into the merits of the case, the petitioner is permitted to submit a representation for treating the period mentioned in the Show Cause Notice as a period spent on duty, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the fourth respondent is directed to consider the petitioner's representation and pass suitable orders in accordance with law, within a period of four months thereafter. The writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kk



To

1. The Additional Director General /
Inspector General of Police,
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+1cc to Mr.Radhakrishnan, Advocate, S.R.No.20804
+1cc to Mr.P. Pugalenthir, Advocate, S.R.No.20351
+1cc to the Government Pleader, S.R.No.21192

MR(CO)
EU 6.7.2020