



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.4406 of 2020

Mohandoss

.. Petitioner

Vs

1. The Disciplinary Authority
for Judicial Department at Vellore
Principal District Judge
Vellore.

2. The District Munsif
Arakkonam
Vellore District.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the impugned order of the first respondent made in Order in Dis.No.8478/2016/SHR/dated 18.10.2016 and quash paragraph 6 of the order and consequential order of the second respondent made in Order in Dis.No.907/2018, dated 12.10.2018 and quash the same.

For Petitioner : Mr.G.Jeremiah

For Respondents : Mr.Fakkir Mohideen

ORDER

(Order of the Court was made by SUBRAMONIUM PRASAD, J.)

The petitioner has filed the instant writ petition challenging the order dated 18.10.2016, whereby the period of suspension suffered by him from 27.5.2013 till the date of joining duty was to be treated as leave on loss of pay and the consequential order dated 12.10.2018 ordering recovery of amount paid to the petitioner during the period of suspension.



2. The petitioner was employed as a Junior Assistant in the Court of Judicial Magistrate, Katpadi. A criminal complaint was filed against him and a case in Crime No.838 of 2013 was registered against him for offences under Section 354 of the Indian Penal Code read with Sections 6 and 10 of the Protection of Children from Sexual Offences Act, 2012. The petitioner was arrested. Since he was kept in custody for a period exceeding 48 hours, he was placed under suspension and disciplinary proceedings were initiated under Rule 17(b)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3. The petitioner was acquitted in the criminal case. The petitioner was exonerated from the charges leveled in the disciplinary proceedings. However, as stated above, the period of suspension from 27.5.2013 till the date of joining duty was treated as leave on loss of pay.

4. It is to be noted that since the petitioner was acquitted in the criminal case and exonerated from the charges leveled in the disciplinary proceedings he was entitled to full pay and allowances. Surprisingly the respondents are proceeding to recover the amount paid to the petitioner during the period of suspension on the ground that the period of suspension from 27.5.2013 till the date of joining duty is to be treated as leave on loss of pay. In fact, some portion of the amount has already been recovered from the petitioner. Hence, the petitioner has filed the instant writ petition.

5. The facts are not disputed. The fact is that the petitioner has been acquitted in the criminal case and the charges against the petitioner under Section Rule 17(b)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have not been proved and the petitioner has been reinstated. Consequently, as a natural consequence, the petitioner was entitled to full pay and allowances during the period of suspension. Instead of paying the petitioner the balance amount due, the first respondent has without any basis decided to pass an order treating the period of suspension from 27.5.2013 till the date of joining duty as leave on loss of pay. This order of the first respondent cannot be sustained in law.

6. The petitioner having not been found guilty of the charges and in the absence of any further material which would warrant treating the period of suspension as leave on loss of pay, the order passed by the first respondent treating the period from 27.5.2013 till the date of joining duty as leave on loss of pay has to be necessarily set aside and the consequential order, directing recovery of the amount paid to



the petitioner during the period of suspension also does not hold water.

For the reasons aforesaid, the writ petition is allowed and the impugned order dated 18.10.2016 and the consequential order dated 12.10.2018 ordering recovery of amount paid to him during the period of suspension are set aside. The petitioner is entitled to full pay and allowances for the period he was kept under suspension. The amount recovered from the petitioner and other amounts payable to him by virtue of this order shall be adjusted and paid to the petitioner within six weeks from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.No.5203 of 2020 is closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

sasi

To:

1. The Disciplinary Authority
for Judicial Department at Vellore
Principal District Judge
Vellore.
2. The District Munsif
Arakkonam
Vellore District.

+1cc to Mr.G.Jeremiah, Advocate SR.No.18014

+1cc to Mr.Fakkir Mohideen, Advocate SR.No.18052

W.P.No.4406 of 2020

PA (CO)
GMY (18/03/2020)