



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.6262 of 2013

A.Jainulabideen

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Revenue Department,
Secretariat, Chennai-600 009.

2.The Assistant Director of Survey and Land Records,
District Survey Office,
Tanjore, Tanjore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondents relating to G.O.(1D)No.306, Revenue Department, dated 07.11.2012 and quash the same and consequently direct the respondents to take appropriate action for payment of pension as per Pension Rules within a specified time frame on receipt of the fresh proposals that may be fixed by this Court.

For Petitioner	: Mr.K.Saburkhan
For Respondents	: Mr.S.Dhayalan
	Government Advocate

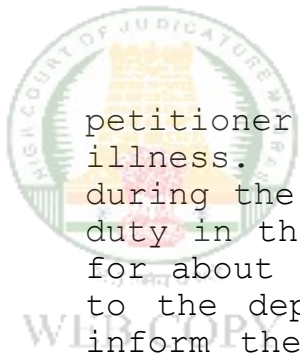
ORDER

The order of removal passed by the first respondent in G.O. (1D)No.306, Revenue Department, dated 07.11.2012, is under challenge in the present writ petition.

2.The writ petitioner was working as Field Surveyor in the Survey and Land Records Department, from 14.10.1965 onwards. Lastly, he served as Field Surveyor at Mannarkudi under the control of Assistant Director of Survey and Land Records, Tanjore.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner applied for one month Earned Leave from 01.12.1976 for performing Ajmeer Holy Trip. The Assistant Director of Survey and Land Records, Tanjore, reported the same to the District Collector in his proceedings, dated 26.06.2003. The salary was paid upto 30.11.1976.

4.The petitioner, in his affidavit, states that while returning from Ajmeer Holy Trip, he became mentally ill and did not know what happened to him. Thus, he could not able to join duty on expiry of the leave period on 01.01.1977. The family members of the



petitioner took him to various holy places for curing the mental illness. The writ petitioner states that he became normal only during the month of March 1999. However, he was not allowed to join duty in the year 1977-1999 and the petitioner remain absent. Nearly for about 22 years, the whereabouts of the petitioner was not known to the department and he had not taken steps to join duty or to inform the officials concerned. His family members also had not informed his mental illness or otherwise to the department and there is no medical records made available to trust his illness. Even before the department, no materials were produced to establish the mental illness of the writ petitioner for more than 22 years. The 17(b) charge memo was issued in proceedings, dated 12.01.2007. The charge memo was challenged by the writ petitioner in W.P.No.2057 of 2007, on the ground of delay and it was dismissed on 24.03.2007. Thereafter, the petitioner submitted his explanation setting out certain facts. He reached the date of superannuation on 30.04.2000 and an enquiry was conducted and the Enquiry Officer submitted his report on 05.06.2007 and further, the enquiry report was communicated to the writ petitioner by issuing second show cause notice. The writ petitioner submitted his further explanation to the authorities competent and based on the enquiry report, the final order has been passed removing the writ petitioner from service.

5.The learned counsel for the writ petitioner made a submission that due to mental illness, the petitioner was unable to join and attend duty. Thus, the benefits for the period of service rendered by him is to be paid.

6.The learned Government Advocate appearing for the respondents disputed the contentions by stating that the petitioner was a continuous absentee and he remained absent for about 22 years. His whereabouts are not known to the authorities concerned, even his family members had not contacted the competent authorities. This apart, even during the enquiry proceedings, no acceptable medical records were produced establishing his mental illness for about 22 years. This being the factum established, the enquiry officer held that the charges are proved and based on the proved charges, the writ petitioner was removed from service. The writ petitioner was aged about 71 years even at the time of filing the writ petition and now he would be around 78 years and there was an enormous delay even in approaching the authorities and approaching the High Court. The charge memo was issued soon after, the petitioner approached the authorities after a lapse of about 22 years from the date of abandoning the duty. Thus, the delay cannot be held against the officials. When there is no proof recording the employee and whereabouts are not known, then the department is helpless even in the matter of conduct of enquiry. Thus, the delay in initiation of disciplinary proceedings cannot be held against the department, as there is no information about the writ petitioner or his whereabouts were known to the department. This apart, the family members also have not informed about whereabouts of the petitioner and they have



not contacted the department officials.

7.This being the factum established, the writ petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition. The order of removal from service is in accordance with law and there is no perversity or infirmity, warranting interference by this Court. Thus, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

- 1.The Principal Secretary to Government,
Revenue Department,
Secretariat, Chennai-600 009.
- 2.The Assistant Director of Survey and Land Records,
District Survey Office,
Tanjore, Tanjore District

+1 CC to M/s.SPL GP (SR-20526[F] dated 19/10/2020)

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