



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.7297 of 2013

A.Rajaram

... Petitioner

-Vs-

1.The Secretary to Government of Tamil Nadu,
Department of Labour and Employment,
Fort ST.George, Chennai -9

2.The Commissioner of Labour,
Department of Labour,
D.M.S.Teynampet,
Chennai 6.

3.The Joint Commissioner of Labour,
Department of Labour,
Ellis Nagar, TNHB Building,
Madurai.

4.The Inspector of Labour,
66, Thattar Street, Tuticorin.

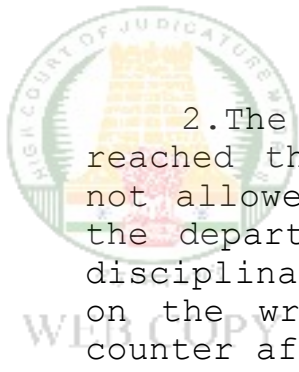
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to grant all the petitioner's pending promotions, salaries and 13 increments from 01.07.2000 to till date and to disburse all the monetary benefits to the petitioner within a stipulated period of time.

For Petitioner	: Mr.C.Arul Vadivel @ Sekar
For Respondents	: Mr.G.Arjunan Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the respondents one to three to grant all further promotions, salaries and 13 increments from 01.07.2000 to till date and to disburse all the monetary benefits to the petitioner.



2.The petitioner was appointed as Inspector of labour and reached the age of superannuation. However, the petitioner was not allowed to retire from service on account of the pendency of the departmental disciplinary proceeding before the tribunal for disciplinary proceedings. The details of the punishments awarded on the writ petitioner was furnished in Paragaph No.5 of the counter affidavit, which reads as follows:

"5. With regard to the averments made in paragraph 4 of the affidavit, it is submitted that the following punishments were awarded for the various lapses found in his duty.

a. Stoppage of increment for 6 months by the Commissioner of Labour, Chennai in Proceedings No.F1/50255/93, dated 09.03.1995 (Copy enclosed) for misappropriation of Government funds for sending personal telegram. The period of currency of punishment was from 01.07.1995 to 31.12.1995.

b. Stoppage of increment for 6 months, vide Proceedings No,.F1/83072/92, dated 05.01.1996 of the Commissioner of Labour (Copy enclosed) based on the charges framed under Rule 17(b) for interference with the official functioning of the superior officers, vide Charge Memo No.A1/1181/91, dated 08.04.1993 of the Deputy Commissioner of Labour, Madurai. The currency of punishment is from 01.07.1996 to 31.12.1996.

c. Stoppage of increment for 6 months in Proceedings No.F1/39395/94, dated 13.05.1996 of the Commissioner of Labour, Chennai (Copy enclosed) for failure to offer his explanation on the charges and failure to send his reply on the complaint against him through proper channel and derogatory remarks made against the superior officers. The currency of punishment is from 01.01.1997 to 30.06.1997.

d. Stoppage of increment for 6 months in Proceedings No.F1/17176/95, dated 13.05.1996 of the Commissioner of Labour (Copy enclosed) for irregularities in the discharge of his duties. The currency of punishment is from 01.07.1997 to 31.12.1997. In view of the pendency of charges framed against the petitioner under rule 17(b) of TNCA rules vide charge memo No.F1/49230/1996, dated 22.07.1997, the petitioner was not considered for promotion to the post of Deputy Inspector of Labour for the year 1998-99 (crucial



date 01.05.1998) and for the year 1999-2000 (crucial date 01.05.1999).

e. Stoppage of increment for one year in Proceedings No.A/7732/99, dated 28.12.1999 of the Inspector of Labour, Tuticorin (Copy enclosed) based on the charges framed against him under Rule 17(a) for the certain lapses in discharge of his official duties. The currency of punishment is from 01.07.2000 to 30.06.2001.

f. Awarded "Censure" in Proceedings No.A/10456/1999, dated 30.12.1999 of the Inspector of Labour, Tuticorin (Copy enclosed) based on the charges framed against him under Rule 17(a) for leaving the headquarters without permission.

g. Stoppage of increment for 6 months in Proceedings No.A/12758/99, dated 30.12.1999 of the Inspector of Labour, Tuticorin (Copy enclosed) based on the charges framed against him under Rule 17(a) for criticizing the orders of the Government issued in G.O.No.12, Labour and Employment Department, dated 22.01.1999, wherein the Government have instructed to collect date for fixation of minimum wages for employment as Security guards. The currency of punishment is from 01.07.2001 to 31.12.2001.

h. Stoppage of increment for 1 year in Proceedings No.A/239/99, dated 30.12.1999 of the Inspector of Labour, Tuticorin (Copy enclosed) based on the charges framed against him under Rule 17(a) for having given false complaint against certain Weights and Measures and Dealers & Repairers and failure to appear for enquiry on the complaint made by him. The currency of punishment is from 01.01.2002 to 31.12.2002.

i. Stoppage of increment for 6 months in Proceedings No.A/577/99, dated 31.01.2000 of the Inspector of Labour, Tuticorin (Copy enclosed) based on the charges framed against him under Rule 17(a) for delay action taken on several prosecution files and for furnishing false reports. The currency of punishment is from 01.01.2003 to 30.06.2003.

j. Stoppage of increment for 1 year, in Proceedings No.F1/79591/95, dated 27.04.2000 of the Commissioner of Labour, Chennai (Copy enclosed) for the charges framed against him under Rule 17(a) for not sending the applications



for repairer / dealer licences without proper scrutiny and interfering with the duties of higher officials and addressing letters to the Controller of Legal Metrology directly. The currency of punishment is from 01.07.2003 to 30.06.2004.

k. Stoppage of increment for 2 years in Proceedings No.A/13388/99, dated 21.06.2000 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17(a) for insubordination and dereliction from performing official duties. The currency of punishment is from 01.07.2004 to 30.06.2006.

l. Stoppage of increment for 2 years in Proceedings No.A/977/99, dated 14.11.2000 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17 (a) for furnishing false information in the Compounding proposal in order to impose lower fine and refusal to receive Memorandum to call for his explanation for certain lapses. Challenging the same he preferred appeal before the Appellate Authority / Deputy Commissioner of Labour, Tirunelveli and the punishment imposed was confirmed. The currency of punishment is from 01.07.2006 to 30.06.2008.

m. Stoppage of increment for 2 years in Proceedings No.A/9652/99, dated 22.01.2001 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17 (a) for furnishing false information in the Compounding proposal in order to impose lower fine and for furnishing false information in a prosecution matter. The currency of punishment is from 01.07.2008 to 30.06.2010.

n. Stoppage of increment for 1 year in Proceedings No.A/806/2000, dated 26.02.2001 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17(a) for filing charge sheet in the Court without obtaining permission, failure to produce the records called for and dereliction of duty and insubordination. The currency of punishment is from 01.07.2010 to 30.06.2011.

o. Stoppage of increment for 1 year in Proceedings No.A/13398/99, dated 26.02.2001 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him



under Rule 17(a) for insubordination, dereliction from performing official duty and refusal to receive charge memo. The currency of punishment is from 01.07.2011 to 30.06.2012.

p. Stoppage of increment for 2 years in Proceedings No.A/11672/99, dated 30.03.2001 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17(a) for filing of case after disposal of the same by Compounding the offence, filing of case without obtaining permission and refusal to receive charge memo. The currency of punishment is from 01.07.2012 to 30.06.2014.

q. Stoppage of increment for 1 year in Proceedings No.F1/49230/96, dated 23.04.2001 of the Commissioner of Labour, Chennai (Copy enclosed) based on the charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. The currency of punishment is from 01.07.2014 to 30.06.2015.

r. Stoppage of increment for 1 year in Proceedings No.79717/2000, dated 11.09.2001 of the Commissioner of Labour, Chennai (Copy enclosed) for the charges framed against him under Rule 17(a) for refusal to appear before the Enquiry "Officer to enquire about certain complaints made by the Tuticorin Management of Tamil Nadu and Tamil Nadu Tuticorin All India Chambers of Commerce & Industries. The currency of punishment is from 01.07.2015 to 30.06.2016.

s. Stoppage of increment for 1 year in Proceedings No.A/342/2001, dated 17.09.2002 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17(a) for filing of case in the Court without obtaining permission and dereliction in the official duties. The currency of punishment is from 01.07.2016 to 30.06.2017.

t. Stoppage of increment for 1 year in Proceedings No.A/3311/2001, dated 30.12.2002 of the Inspector of Labour, Tuticorin (Copy enclosed) for the charges framed against him under Rule 17(a) for falsification of office records. The currency of punishment is from 01.07.2017 to 30.06.2018.

u. Stoppage of increment for 1 year in Proceedings No.A/9184/2000, dated 22.01.2001 of the Inspector of Labour, Tuticorin (Copy



enclosed) for the charges framed against him under Rule 17(a) for furnishing of false and fabricated particulars to deceive the superior officer. The currency of punishment is from 01.07.2018 to 30.06.2019.

v. "Warning" awarded in Proceedings No.A/1689/99, dated 04.04.2003 of the Inspector of Labour, Tuticorin for wrongful claim of Fixed Travelling Allowance by furnishing false information.

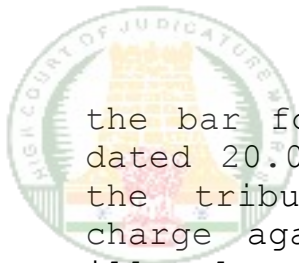
w. Stoppage of increment for 3 months in Proceedings No.E2/14259/2002, dated 23.05.2003 of the Chief Inspector of Factories, Chennai (Copy enclosed) for the charges framed against him under Rule 17(a) for according permission to Tmt.S.L.Hemalatha, Inspector of Factories for the purpose of built house from Tamil Nadu Housing Board without obtaining permission of the Chief Inspector of Factories, Chennai in the file. The period of currency of punishment is from 01.07.2019 to 30.09.2019.

x. Stoppage of increment for 3 months in Proceedings No.E2/14260/2002, dated 23.05.2003 of the Chief Inspector of Factories, Chennai (Copy enclosed) for the charges framed against him under Rule 17(a) for according permission to Thiru.C.Chidambaranathan, Inspector of Factories for the purpose of built house from Tamil Nadu Housing Board without obtaining permission of the Chief Inspector of Factories, Chennai in the file. The period of currency of punishment is from 01.10.2019 to 31.12.2019.

y. Awarding "Censure" vide Proceedings No.F1/77203/2006, dated 16.07.2012 of the Commissioner of Labour, Chennai (copy enclosed) for the charges framed against him under Rule 17 (b) for insubordination and sending communication to the Government directly.

z. Awarding "Censure" vide Proceedings No.F1/42209/2007, dated 18.10.2012 of the Commissioner of Labour, Chennai (copy enclosed) for the charges framed against him under Rule 17 (b) for issuing derogatory press release against the Government and the officials of the Department."

3. In view of the details of the punishments, as narrated above, the petitioner was not considered for further promotion. Currency of punishment or pendency of disciplinary proceeding is



the bar for promotion. Beyond all these things, in proceeding dated 20.03.2014, the petitioner was placed under suspension, as the tribunal for disciplinary proceeding, Tirunelveli framed charge against the petitioner for having demanded and accepted illegal gratification from the Beedi manufacturers for renewing licenses and for allowing them to continue the Beedi rolling business on contract basis. Thus, the petitioner was not permitted to retire on the date of his superannuation on 31.03.2014 and he was retained in service under FR 56(1)(c), until enquiry into charges pending are concluded and final orders passed thereon by the competent authorities.

4.In view of the fact that the petitioner was suffering many punishments and now, under suspension even after reaching the age of superannuation, his claim for promotion cannot be considered at all. Regarding grant of increment, the punishment of stoppage of increment was imposed on several occasions, as narrated in the aforementioned paragraph, the relief sought for in the writ petition itself is waive and not clear. Such a general relief for grant of 13 increments cannot be considered by this Court. Promotions are to be granted strictly in accordance with the Rules in force.

5.In view of the fact that the petitioner was suffering various punishments and now, under suspension even after reaching the age of superannuation, this Court is of the considered opinion that the petitioner is not entitled for any relief, as such sought for in the present writ petition. Accordingly, the present Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

rmk

To

1.The Secretary to Government of Tamil Nadu,
Department of Labour and Employment,
Fort ST.George, Chennai -9

2.The Commissioner of Labour,
Department of Labour,
D.M.S.Teynampet,
Chennai 6.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Joint Commissioner of Labour,
Department of Labour,
Ellis Nagar, TNHB Building,
Madurai.

4.The Inspector of Labour,
66, Thattar Street, Tuticorin.

+1 cc to Mr.C.Arul Vadivel @ Sekar , Advocate SR.No.25889

+1 cc to The Special Government Pleader Sr.No.26011 & 26099

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