



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.1997 of 2020

WEB COPY

M.Ravindran Mariappan

... Petitioner

vs.

1.The Principal Secretary to Government,
Youth Welfare and Sports Development(YW),
Fort Saint George, Chennai 600 009

2.The Deputy Director General of NCC,
NCC Directorate (TN, P & AN),
Fort Saint George, Chennai 600 009

3.The Group Commander,
NCC Group Head Quarters,
No.26, V.R.Road, Visalashipuram,
Madurai 625 014

4.The Commanding Officer,
3(TN) Naval Unit NCC,
401 South Cotton Road Lions Town,
Thoothukudi - 628 001

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order from the 2nd respondent as well as the consequential final order passed by the 4th respondent vide No.451/1/SC dated 20.01.2020 and to set aside and quash the same and direct the 1st and 2nd respondent's to treat 557 days as loss of pay and regularize the same and direct to pay salary and allowances for the period of 424 days vide 08.01.2020 and 24.01.2020 if any interest and with cost.

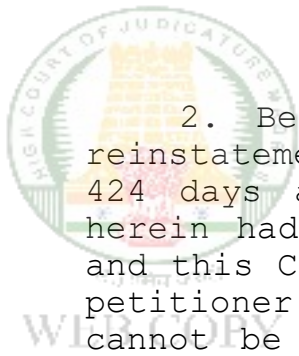
For Petitioner : Mr.S.Balaji

For R-1 : Mr.M.Karuppasamy,
Government Advocate

For RR 2 to 4 : Mr.P.Subbiah,
Central Government Senior Counsel

O R D E R

The petitioner was initially dismissed from service for certain delinquencies and in the appeal filed by him, the initial punishment of removal from service was modified into one of reduction of two increments with cumulative effect. Thereafter, the petitioner came to be reinstated back into service.



2. Between the period of his removal from service and the reinstatement, the petitioner was entitled for payment of salary for 424 days and since his claim was not considered, the petitioner herein had earlier filed a writ petition in W.P.(MD) No.25010/2018 and this Court by an order dated 31.01.2019, had indicated that the petitioner's claim for salary for the aforesaid period of 424 days cannot be denied. The respondents herein had challenged the said order before the Hon'ble Division Bench of this Court and in the judgment dated 27.11.2019 passed in W.A.(MD)No.685 of 2019, the Hon'ble Judge had directed the respondents herein to regularize the petitioner's period of absence, by passing a speaking order, within a period of two weeks. In this back ground, the impugned order dated 20.01.2020 came to be passed by the fourth respondent stating that the petitioner was entitled for 199 days of Earned Leave, which is lying to his credit and therefore sought for his willingness for regulating the period of deemed suspension through the earned leave available to his credit. The said order is now put under challenge in the present writ petition.

3. Before advertng to the legality of the impugned order, it requires to be pointed out that this Court, on two occasions viz., in its order dated 31.01.2019 passed in W.P.(MD) No.25010 of 2018 and judgment dated 27.11.2019 passed in W.A.(MD) No.685 of 2019, had issued positive directions to the fourth respondent herein to regularize the period of absence of the petitioner and pay the salary for such period of 424 days.

4. The fourth respondent herein, had totally misconstrued these two orders of this Court and had in fact, violated the observations made by this Court, by calling upon the petitioner to express his willingness to regulate the period of suspension with the Earned Leave available to his credit. As a matter of fact, the impugned order dated 20.01.2020 can be deemed to be in wilful disobedience to the earlier directions of this Court.

5. Notwithstanding the earlier observations made by this Court in W.P.(MD) No.25010 of 2018 and W.A.(MD) No.685 of 2019, I am also of the view that when the petitioner's original order of punishment came to be modified by the Appellate Authority, consequent to which the petitioner was also reinstated, he is deemed to have been in service during such period of absence, unless it is specifically indicated in the order of the Appellate Authority, that he would not be deemed to be in service during that relevant point of time. While that being so, the petitioner would be entitled for the monetary and service benefits that had accrued during the period of his original dismissal from service till the date of his reinstatement.

6. Though this Court has found that the fourth respondent herein had violated the directions of this Court, this Court consciously desists itself from taking action against the respondent



7. However, in order to give one final opportunity to the fourth respondent, there shall be a direction to the fourth respondent to forthwith regularize the service of the petitioner for the period of 424 days, between 27.02.2015 to 25.04.2016 and consequently pay all the accrued salary and other allowances, together with interest at the rate of 6% per annum from 27.02.2015 till date on actual payment, the disbursement of which, shall be made atleast within a period of four weeks from the date of receipt of a copy of this order.

8. In view of the above directions, the impugned order passed by the fourth respondent made in No.451/1/SC, dated 20.01.2020 is hereby quashed. Accordingly, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

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+1 CC to SPL.GP (SR-8771[F] dated 27/02/2020)

+1 CC to Mr.S.BALAJI, Advocate (SR-8526[F] dated 26/02/2020)

Order made in

W.P. (MD)No.1997 of 2020

Dated:26.02.2020

MK (18.03.2020) 3P 7C

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