



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.9450 of 2020

(Through Video Conferencing)

WEB COPY

E.Thangapandian

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department
No.119 Mahatma Gandhi Road,
Nungampakkam,
Chennai.

2.The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Tirunelveli.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowment Department
Tirunelveli

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd Respondent in Pro.R.C.No.4858/2019-2/A-1/ dated 13.4.2019 and quash the same and consequently direct the 2nd Respondent to reinstate the Petitioner and also to pay 75% of subsistence allowance from 13.10.2019 to till date and pay 17% of the Dearness Allowance from July 2019 to till date to the Petitioner based on the Petitioner's representations dated 28.5.2020, 5.6.2020, 15.7.2020 and 6.8.2020.

For Petitioner

:Mr.C.Vakeeswaran

For Respondents

:Mr.K.P.Narayanakumar

Special Government Pleader

ORDER

Challenging the order passed by the 2nd Respondent dated 13.4.2019 and for a consequential direction to the 2nd Respondent to reinstate the Petitioner and also to pay 75% of subsistence allowance from 13.10.2019 to till date and pay 17% of the Dearness Allowance from July 2019 to till date to the Petitioner based on the Petitioner's representations dated 28.5.2020, 5.6.2020, 15.7.2020 and 6.8.2020, the writ petition has been filed.



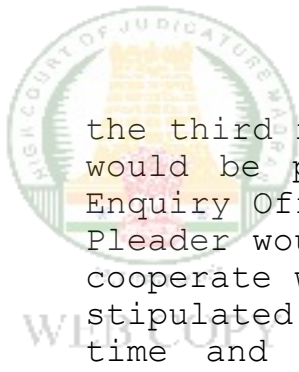
2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

3. The petitioner was working as Grade II Executive Officer at Thirumigu Rani Karupayee Natchiyar Kattalai, Sivagiri Town, Sivagiri Taluk, Tirunelveli District. While so, he was placed under suspension by order dated 13.04.2019 of the second respondent, pending enquiry, the charges framed against him, on the same day, ie., on 13.04.2019. Even though the charge memo was issued on the same day ie., on 13.04.2019, thereafter, so many representation and letter correspondences between the petitioner and the respondents, several representations seem to have been given for more than a year by the petitioner, but in the net result, the enquiry is pending and final order has not been passed. Hence, the suspension of the petitioner has also not so far been revoked and the petitioner has been continuously under suspension till date. Only in those circumstances, challenging the prolonged suspension order dated 13.04.2019, the petitioner approached this Court by filing the present writ petition.

4. The learned counsel for the petitioner would submit that, very belatedly, the notice related to the enquiry proceeding has been served on the petitioner and in the meanwhile due to COVID-19 pandemic situation, as the public transport system has been suspended, the petitioner could not move from Virudhunagar, where he is staying now, to Tirunelveli, where, the third respondent office is located, who is the Enquiry Officer, to participate in the enquiry. In the meanwhile, the suspension made on 13.04.2019 still continues and even though the petitioner is entitled to get higher subsistence allowance than 50%, which is already paid to the petitioner, that enhanced subsistence allowance has not been paid. Only in these circumstances, the petitioner has approached this Court challenging the prolonged suspension order dated 13.04.2019. Therefore, the indulgence of this Court is sought for, he submitted.

5. However, the learned Special Government appearing for the respondents would submit that, the respondents are always ready and willing to conduct and complete the disciplinary proceedings, for which, notices have already been served on the petitioner, whereas, the petitioner has given written request to the respondents stating that due to COVID-19 situation, he is not able to move from Virudhunagar to Tirunelveli. Because of his non cooperation due to the aforesaid COVID-19 situation, as he expressed difficulty to move from Virudhunagar to Tirunelveli to participate in the enquiry, disciplinary proceedings could not be completed as expected.

6. The learned Special Government Pleader would further submit that, if at all the petitioner, despite COVID-19 situation, by making his own arrangement, is able to attend the enquiry, which may last for five or six times, within two months period, definitely,



the third respondent would complete the enquiry and even final order would be passed by the disciplinary authority depending upon the Enquiry Officer's report. Therefore, the learned Special Government Pleader would submit that, if the petitioner is ready and willing to cooperate with the respondents to complete the enquiry within a time stipulated by this Court, the enquiry would be completed within that time and accordingly, the impugned suspension made against the petitioner dated 13.04.2019 would be reviewed as to whether such suspension is necessary to be extended further or not.

7. The said submissions made by the learned counsel for the parties are taken into account and having regard to the factual matrix of the case, this court is inclined to dispose of this writ petition with the following order:

"that the respondents shall complete the enquiry initiated against the petitioner by issuing a charge memo dated 13.04.2019, within a period of two months from the date of receipt of a copy of this order. It is needless to mention that, because of the time limit now stipulated by this Court, the petitioner shall give fullest cooperation by appearing before the Enquiry Officer, as soon the notice is issued to that effect from the Enquiry Officer/respondent and in this regard, no excuse shall be entertained by the respondents from the petitioner by not appearing citing COVID-19 situation. In case, the enquiry has been completed and report has been submitted within the said two months time, depending upon the outcome of the enquiry proceedings, final order may be passed and with the result, the impugned suspension order would come to an end either way. Instead, if the enquiry is not able to be completed within the two months time, for which, no reasons can be attributable on the petitioner, on the expiry of the two months period, the respondent shall review the impugned suspension order dated 13.04.2019 and accordingly, to take a decision, whether the same has to be further extended. Till such suspension order is revoked, whatever, the subsistence allowance, the petitioner is entitled to shall be paid to him without any delay."

8. With these directions, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

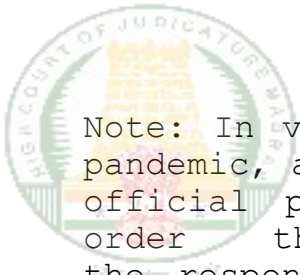
Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

RR



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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+1 CC to M/s.SPL GP (SR-14412[F] dated 19/08/2020)

+1 CC to M/s.C. VAKEESWARAN, Advocate (SR-14360[F] dated 19/08/2020)

W.P. (MD)No.9450 of 2020
and W.M.P. (MD) Nos.8555 and 8556 of 2020
18.08.2020

KB(17.09.2020) 4P 6C