IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.34359 of 2012

Sivasankaran ...Petitioner

Vs

The Sub-Collector,
Ranipet, Vellore District. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed in Na.Ka.No.A5/7682/2009 dated 02.07.2012 and quash the same and further direct the respondent to treat the period of suspension from 01.10.2008 to 29.12.2008 as duty for all purposes and further direct the respondent to draw and disburse the salary due for the above period within a reasonable time.

For Petitioner : Mr.M.Muthappan

For Respondent : Mr.S.Thangavel, SGP

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein was placed under suspension on 01.10.2008 on a set of charges. By an order dated 30.09.2009, a period of 90 days between 01.10.2008 and 29.12.2008 was directed to be treated as earned leave, which order was passed by the Personal Assistant to the District Collector, Vellore. In the mean time, the petitioner was imposed with the punishment of compulsory retirement from service, which was challenged by him before the District Collector, Vellore. By an order dated 18.11.2009, the District Collector has remanded back the matter to the Original Authority and simultaneously placed the petitioner under suspension.

3. The learned counsel for the petitioner would submit that since the District Collecter had set aside the original order of punishment, the petitioner is deemed to be in service during the period of suspension and

therefore, he is entitled for full wages for the period of suspension including the period between 01.10.2008 and 29.12.2008.

4. Per contra, the learned Special Government Pleader appearing for the respondent would place reliance on the reasoning given in the impugned order and submitted that since the petitioner herein had already received the earned leave salary between 01.10.2008 and 29.12.2008 and also since the Personal Assistant to the District Collector had already ordered this period of 90 days to be treated as earned leave, there was no infirmity in the impugned order rejecting the petitioner's request.

5. I have given careful consideration to the submissions made by the respective counsels.

6. It is not in dispute that the Personal Assistant to the District Collector had ordered the period of suspension between 01.10.2008 and 29.12.2008 to be treated as earned leave and that the said order has not

been disturbed. The contention of the petitioner that since the District Collector, on appeal, had set aside the original order, the petitioner herein is deemed to have been in service during the suspension period between 01.10.2008 and 29.12.2008, cannot be sustained for the simple reason that the order dated 30.09.2009, directing that this period of 90 days would be treated as earned leave, has not been withdrawn or set aside. Furthermore, the petitioner herein had already received the earned leave salaries for the period of 90 days and therefore, the reasoning adopted by the respondent herein while rejecting the petitioner's request for these 90 days seems to be justifiable and correct.

7. That apart, there is an appeal remedy as against the order of the respondent, before the concerned Revenue Divisional Officer, which the petitioner had also availed. Having availed the appeal remedy and simultaneously filing of the writ petition would amount to parallel adjudication and therefore, on this ground also, the writ petition cannot be entertained.

8. For all the foregoing reasons, I do not find any merits in the writ petition and accordingly, the same stands dismissed. No costs.

9. At this juncture, the learned counsel for the petitioner would submit that the appeal preferred by the petitioner has not been disposed of till date. In case, the appellate authority has not disposed of the appeal till date, there shall be a direction to the concerned Revenue Divisional Officer to pass final orders in the above appeal, within a period of three months from the date of receipt of a copy of this order.

22.04.2021

Index:Yes/No
Speaking order/Non-speaking order

sbn/hvk

To

The Sub-Collector,
Ranipet, Vellore District.

M.S.RAMESH,J.

sbn/hvk

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