



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MRS.JUSTICE N.MALA

WRIT APPEAL NOS.108 AND 109 OF 2013

- 1.R.M.Partheeban (deceased)
- 2.P.Sakunthala
- 3.P.Boopathi
- 4.P.Saraswathi
- 5.P.Gowri

(Appellants 2 to 5 are substituted as LRs of the deceased sole appellant vide orders dt.10.10.2012 and 13.12.2021 made in MP Nos.3 and 3 of 2012 in WASR Nos.30408 and 30409 of 2011.)

...Appellants in both the appeals

Vs

The Assistant Director of Survey and Land Records,
Collectorate, Vellore, Vellore District,
PIN 632 009

...Respondent in W.A.No.108 of 2013

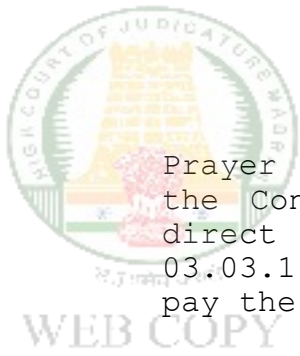
- 1.The Assistant Director of Survey and Land Records,
Collectorate, Vellore, Vellore District,
PIN 632 009

- 2.The Tahsildar,
Tirupathur,
Vellore District
PIN 635 601.

- 3.The Commissioner,
Municipal Office,
Tirupathur,
Vellore District.
PIN 635 601

...Respondents in W.A.No.109 of 2013

Writ Appeals filed under Clause 15 of the Letters Patent against the orders dated 07.02.2011 in W.P.Nos.2513 of 2005 and 46823 of 2006.



Prayer in W.P.No.2513 of 2005 : Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the respondent to treat the period from 09.03.1996 to 03.03.1997 as duty for all purpose and direct the respondent to pay the salary for the said period with 18% interest.

Prayer in W.P.No.46823 of 2006 : Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 28.06.1999 and made in proceedings Na.Ka.A 14/15232/98 on the file of the first respondent herein and quash the same and direct the respondents 1 to 3 to regularise the service of the petitioner from 09.03.1996 to 03.03.1997 as duty and to pay the salary bonus and other service benefits to the petitioner.

For appellants : Mr.PA.Kadirvel

For Respondents : Mr.Abhishek Muthy
Government Advocate

COMMON JUDGMENT

(Judgment of the court was delivered by S.VAIDYANATHAN,J.,)

W.A.No.109 of 2013:

The appellant before this Court has approached the Tamil Nadu Administrative Tribunal questioning the transfer order. The said transfer order was stayed by the Tamil Nadu Administrative Tribunal on 22.03.1996. However, the appellant was not provided with the job and he was continued to be kept under compulsory wait.

2. The appellant has also approached this Court by way of writ petition directly challenging the impugned order and both the writ petitions have been combined together and a common order was passed.

3. Admittedly, when there is an interim order staying the transfer of the appellant, naturally he will have to be reinstated in the place from where he was transferred and services should have been regularised for the period from 09.03.1996 to 03.03.1997. The learned Single Judge has rejected the writ petition on the ground that unless the writ petition is allowed setting aside the order of transfer, he will not be entitled to any benefits. The learned Single Judge has also made an observation that there is no evidence to the fact that after retirement of the appellant, whether any letter has been given seeking treatment of the period as leave to which he is eligible without which he could not have drawn pension.



4. We are of the view that when the order of transfer has been stayed by the Tamil Nadu Administrative Tribunal, the order should have been given effect to either by reinstating the appellant in the same position or by payment of salary by keeping the writ petitioner under compulsory wait. Without doing so, rejecting the request would only amount to non-compliance of the orders of the Court.

5. Hence, we are of the view that the order of the learned Single Judge, not extending the benefits and regularising the period during which he was made to compulsorily wait i.e., from 09.03.1996 to 03.03.1997, shall be regularised and monetary benefits due to him will have to be paid.

6. The purpose of granting an interim order would be defeated if monetary benefits are not extended to the appellant and it would amount to non-compliance of the order not only by the Department but also by the Judiciary. Strictly speaking, the writ petitioner could have filed contempt petition for non-compliance of the order of the Court and in that event, the respondents would have extended all the benefits.

7. We are of the view that the appellant is entitled to all the benefits for the period from 09.03.1996 to 03.03.1997 and the appellant shall be regularised with all attendant monetary benefits and the entire period will be taken into account for the purpose of terminal and other benefits.

8. The monetary benefits shall be paid, after adjusting the amount already paid, if any, within a period of four months from the date of receipt of a copy of this order.

9. With the above observation, W.A.No.109 of 2013 is allowed.

W.A.No.108 of 2013:

In view of the order passed in W.A.No.109 of 2013, no order is required to be passed in W.A.No.108 of 2013 and that the writ petitioner has sought for similar relief in two writ petitions, one by filing a writ petition before this Court and the other before the Tamil Nadu Administrative Tribunal, which was transferred as writ petition which resulted as W.A.No.109 of 2013. Therefore, W.A.No.108 of 2013 is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

sr



To

1. The Assistant Director of Survey and Land Records,
Collectorate, Vellore, Vellore District,
PIN 632 009

2. The Tahsildar,
Tirupathur,
Vellore District, PIN 635 601.

3. The Commissioner,
Municipal Office,
Tirupathur,
Vellore District.
PIN 635 601

+1cc to the Government Pleader Sr.No.26389

+1cc to Mr.PA.Kadirvel, Advocate Sr.No.26024 (21/06/2022)

Writ Appeal Nos.108 and 109 of 2013

AJB (CO)
RVM(27/05/2022)