



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	24.03.2022
Pronounced on	30.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30028 of 2012

R.Veerakumar

... Petitioner

Vs.

Tamil Nadu Minerals Ltd.,
rep. by its Managing Director,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records relating to the impugned letter No.2355/D/86 dated 18.08.1986 from the files of the respondent and quash the same and consequently direct the respondent herein to reinstate the petitioner in service with immediate effect with all consequential benefits.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Mrs.A.Srijayanthi

O R D E R

In connection with a criminal case registered against the petitioner, he was placed under suspension through the impugned order dated 18.08.1986. Subsequently, he was acquitted from the criminal case on 24.04.1989. However, the order of suspension dated 18.08.1986, has not been revoked by the respondent-Management. This impugned order is put under challenge in the present Writ Petition.

2. Pending the Writ Petition, the petitioner had reached the age of superannuation.

3. Heard Mr.K.M.Ramesh, learned counsel for the petitioner and Mrs.A.Srijayanthi, learned counsel appearing on behalf of the respondent.



4. When the petitioner herein had filed Claim Petitions in C.P.Nos.33 of 2000 and 3 of 2002 under Section 33-C (2) of the Industrial Disputes Act, 1947 [hereinafter referred to as "Act"] before the Central Government Labour Court, Chennai, claiming for payment of Subsistence Allowance for the period of his suspension, the Authority under the Act had computed the amount at Rs.4,35,658/- and Rs.87,470/- respectively. The challenge to the Claim Petitions made by the respondent-Management before this Court in W.P.Nso.7123 & 8393 of 2005 was disposed of, by ordering the matter to be remitted back to the Labour Court for re-computation by calculating the allowances at the rate of 50% for the first 90 days of suspension. Consequently, a common order dated 12.09.2012 came to be passed by the Labour Court, directing the respondent-Management to pay a sum of Rs.4,34,807/- and Rs.87,470/- respectively.

5. While the learned counsel for the petitioner submitted that after the acquittal order, the respondent has not immediately reinstated him into service, the learned counsel for the respondent submitted that they were not aware of the order of acquittal.

6. It is not in dispute that the petitioner herein, being a workman under the respondent-Management, would be entitled for payment of Subsistence Allowance for the period of his suspension. The only objection raised by the respondent-Management is that the petitioner herein had not intimated them about the order of acquittal in the criminal case. The respondent-Management had placed a similar objection before the Labour Court when the Claim Petitions were filed by stating that the acquittal order was brought to their knowledge on receipt of the Court notice in the Claim Petitions on 20.08.2001 only. This objection was dealt with by the Labour Court in its common order dated 12.09.2012 and rejected the said plea. The respondent-Management, however had not chosen to challenge these findings in the common order dated 12.09.2012 and thus the findings therein, which is now being raised by way of objection in the present Writ Petition, has become final. While that being so, the respondent-Management cannot raise such objections once again.

7. This apart, the respondent-Management themselves have admitted that they were aware of the acquittal order from 20.08.2001 onwards. The payment of subsistence allowance, being a statutory right vested with the petitioner herein to claim the amount, has been denied even after the alleged knowledge of the criminal case.

8. Above all, the Government order in G.O.(Ms) No.228, Personnel and Administrative Reforms (Personnel-J) Department,



dated 13.04.1989, which is incorporated as Ruling 9(b) under the Tamil Nadu Government Fundamental Rules 53, provides that when a Government Servant is facing suspension in view of his involvement in a criminal offence and subsequently reinstated in service on his acquittal by the Court, either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension.

9. When the Labour Court had found that the objections of the respondent-Management that they were not aware of the acquittal order, cannot be sustained, the petitioner would be entitled to receive the subsistence allowance. Since the respondent-Management has not disputed the quantum computed by the Labour Court through its common order dated 12.09.2012, the petitioner would be entitled to receive the same.

10. In this background, when the respondent-Management had not revoked the suspension order of the petitioner, but had chosen to revoke the suspension order of a co-delinquent, who had faced a similar suspension order, the period of his suspension is liable to be treated as duty for all purposes and the petitioner would be entitled for entire service and monetary benefits during the period of his suspension.

11. The petitioner herein had now reached the age of superannuation and therefore he would be entitled for all the service and monetary benefits including the pensionary benefits.

12. In the light of the above findings, the impugned order dated 18.08.1986 passed by the respondent-Management, is quashed. Consequently, there shall be a direction to the respondent-Management to settle the entire retirement benefits to the petitioner herein, along with the pensionary benefits and the subsistence allowance, as ordered by the Labour Court, through its common order passed in C.P.Nos.33 of 2000 & 3 of 2002 dated 12.09.2012, within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed accordingly. There shall be no orders as to costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

DP

Sub Assistant Registrar



To

The Managing Director,
Tamil Nadu Minerals Ltd.,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.21849

+1cc to Mrs.A.Sri Jayanthi, Advocate, S.R.No.21648

W.P.No.30028 of 2012

BR(CO)
SU(06/04/2022)