



W.P.No.17389 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.17389 of 2019

E.Dhayarathan

.... Petitioner

-Vs-

1.The Managing Director
State Industries Promotion Corporation
of Tamil Nadu Ltd., (SIPCOT)
No.19-A, Rukmani Lakshmipathy Road
Egmore, Chennai 600 008.

2.The Principal Secretary to Government
Industries (MIG.1) & Chairman of SIPCOT
Secretariat, Chennai 600 009.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent herein to regularize the SIPCOT MD Proceedings No.E3/MISC/45/2009 dated 16.08.2018 and to regularize the petitioners service with all attendant benefits and monetary benefits and enable the petitioner to promote as executive engineer in the existing vacancies.

For Petitioner : Ms.V.P.Premalatha

For Respondents : Mr.M.Karthikeyan
Standing Counsel – for R1

Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader -for R2



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ORDER

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The prayer sought for herein is for a Writ of Mandamus directing the first respondent herein to regularize the SIPCOT MD Proceedings No.E3/MISC/45/2009 dated 16.08.2018 and to regularize the petitioners service with all attendant benefits and monetary benefits and enable the petitioner to promote as executive engineer in the existing vacancies.

2. The petitioner was working as Assistant Executive Engineer at the respondent organization viz., State Industries Promotion Corporation of Tamil Nadu (SIPCOT). While he was in service, there was a DVAC action by which he was arrested and had been in judicial custody with effect from 09.11.2009 and he continued to be in custody for a period exceeding 48 hours.

3. Pursuant to the said judicial custody, the respondent employer decided to place the petitioner under suspension by order dated 12.11.2009. Since the said DVAC proceedings was pending and the disciplinary proceedings initiated against the petitioner also was pending, the said suspension was not revoked and on 27.04.2018, the criminal case against the petitioner concluded, where he was acquitted. Pursuant to which, the petitioner had requested the respondents to reinstate him into service. Accepting the same, the suspension order dated



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12.11.2009 was revoked and accordingly the petitioner was reinstated into service by proceedings dated 16.08.2018.

4. In the said order dated 16.08.2018, such reinstatement was given to the petitioner on two conditions viz., without prejudice to the pending disciplinary proceedings and subject to the further direction from the DVAC / Government.

5. Accordingly, the petitioner had been working after reinstatement. However, in order to regularize the period of suspension into service with other benefits, the petitioner wanted a direction to the respondents and therefore, he has approached this Court by filing this writ petition with the aforesaid prayer.

6. Heard Mrs.V.P.Premalatha, learned counsel for the petitioner, who would submit that, since the suspension was made against the petitioner for a longer period of nine years only because of the pendency of the DVAC case, which has been subsequently ended in favour of the petitioner and accordingly the petitioner was reinstated into service, the suspension period shall be regularized with all service benefits. Since the said service benefits by regularizing the suspension period has not been made by the respondent SIPCOT, the learned counsel for the petitioner seeks necessary direction to be issued to the respondent SIPCOT.



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7. However, on the other hand Mr.M.Karthikeyan learned Standing Counsel appearing for the respondent SIPCOT has submitted that, pursuant to the order dated 16.08.2018, under which the suspension order was revoked and the petitioner was reinstated, the disciplinary proceedings already initiated against the petitioner was conducted, where the charges framed against the petitioner was proved. Therefore, for the proven charge, the disciplinary authority by order dated 23.05.2022 has inflicted the punishment of reversion to a lower rank of Assistant Engineer post, which will take effect from the date of the order and in view of the said punishment having been inflicted against the petitioner, the question of regularizing his suspension period as duty period in the post he held as Assistant Executive Engineer does not arise and therefore, if at all the petitioner is aggrieved over the order of punishment made against him, he has to question only the said order of punishment, without which he cannot seek for any further benefits pursuant to the reinstatement order dated 16.08.2018, he contended.

8. Heard the learned counsel for both sides and have perused the materials placed on record.



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9. As has been rightly pointed out by the learned Standing Counsel, the reinstatement order dated 16.08.2018 itself is a conditional order, where it is stated that subject to the pending disciplinary proceedings. Now the disciplinary proceedings has come to a conclusion, under which, based on the proven charge against the petitioner, the punishment of reversion has been inflicted on the petitioner by order of the respondents dated 23.05.2022 and that order is staring on the petitioner. Therefore, if the petitioner is aggrieved against the said order of punishment, he can very well agitate the said order in the manner known to law. Unless there is a conclusion arrived on the completed disciplinary proceedings, which now ended in punishment of reversion, the present prayer sought for pursuant to the reinstatement order dated 16.08.2018 cannot be conclusively decided. Therefore, this Court is not inclined to grant the relief as sought for by the petitioner.

10. In the result, the writ petition deserves to be rejected and it is accordingly dismissed. No costs. However, liberty is given to the petitioner to re-agitate the issue of regularizing the suspension period as duty period for all monetary and service benefits only after getting any favourable order by challenging the present punishment awarded against the petitioner by the disciplinary authority dated 23.05.2022, for which it is open to the petitioner to challenge the said order in the manner known to law.



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11. With these observations, the writ petition is dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
KST
To

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