

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NOS.15773 OF 2014 AND 23474 OF 2015

S.Sundar

...Petitioner in both WPs.

Vs

The Additional Director (Admn.)
Treasuries Accounts Department,
Panagal Building, 2nd Floor,
No.1, Jeenis Road, Saidapet,
Chennai - 600 015.

...Respondent in both WPs.

Prayer in WP No.15773 of 2014 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records on the files of respondent in Reference Se. Mu.Na.Ka. No.13898 of 2003/M1 dt. 18.01.2013 and quash the same being illegal invalid violated the principles of natural justice.

Prayer in WP No.23473 of 2015 : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, Calling for records relating to the order of the respondent made in Na.Ka.No.51567/2014/M1 dated 09.06.2015 to quash the same and consequently direct the respondents to forthwith regularize the period between 05.03.2003 and 06.02.2012 as duty for all purposes as per Fundamental Rules 54-B-Ruling (9) and to extend all benefits both service and monetary arising thereto.

For Petitioner : Mr.P.Manoj Kumar
in both WPs.

For Respondents : Mr.A.M.Ayyaduri
in both WPs. Government Advocate

C O M M O N O R D E R

The writ petitions are filed to regularize the period of suspension from 05.03.2006 to 02.06.2012 as duty with full salary for all purposes.

2. The writ petitioner was working as Record Clerk in the Pay and Accounts office (East), Chennai. A criminal case was

registered against him under Sections 341, 395 r/w 397, 427 and 506 (ii) IPC. The criminal case in S.C.No.288 of 2011 on the file of the 2nd Additional Fast Track Court ended with an order of acquittal by judgment dated 29.08.2011.

3. The learned counsel for the petitioner made a submission that soon after the registration of a criminal case, though there was no bar for initiation of departmental disciplinary proceedings, such proceedings were not initiated at that point of time. However, subsequently, the departmental disciplinary proceedings were initiated by framing the charges against the petitioner. The charge against the writ petitioner was that he was arrested and kept in judicial custody and further involved in a criminal case.

4. The involvement of the writ petitioner in a criminal case and his arrest was considered as a moral turpitude under the Conduct Rules and accordingly, disciplinary proceedings was initiated which was ended with an order of punishment of stoppage of increment for six months without cumulative effect, which is a minor penalty.

5. The learned counsel for the petitioner made a submission that the punishment being minor, it has not been questioned by the petitioner. However, the period of suspension is to be treated as duty with full salary.

6. The nature of the criminal case as narrated in the counter affidavit filed by the respondent reveals that the petitioner while working as Record Clerk in Pay and Accounts Office (East), Chennai, a photo was published in Daily Thanthi (Tamil News Paper) dated 06.03.2003, under the caption "a gang was arrested who disguising themselves as policemen stole gold worth Rupees one Crore". The person standing third in the picture is S.Sundar, aged 43, residing at Thoripakkam, working in Chepauk. Therefore, the petitioner was arrested under the criminal case and had been detained in jail and thereafter, placed under suspension.

7. This Court is of the considered opinion that a criminal case was registered against the writ petitioner and he was arrested and remanded to judicial custody and thereafter, the criminal case was pending and finally ended with an order of acquittal. The departmental disciplinary proceedings were initiated for the involvement of the writ petitioner in a criminal case and accordingly, the disciplinary proceeding also ended with punishment of stoppage of increment for six months without cumulative effect and the criminal case ended with an order of acquittal on the ground of benefit of doubt. Mere acquittal in a criminal case would not be a ground to grant

exoneration in disciplinary proceedings. The authorities competent are empowered to regulate the period of suspension on completion of the departmental disciplinary proceedings.

8. In the present case, on completion of the departmental disciplinary proceedings and after the acquittal in the criminal case, the period of suspension was regulated as leave eligible or extraordinary leave. Thus, the period regulated is to be taken into consideration for the purpose of terminal and pensionary benefits and the said period is to be treated as qualifying services for all purposes. However, the said period of suspension cannot be treated as duty with full salary, in view of the fact that the petitioner had involved in a criminal case, and the departmental disciplinary proceedings initiated also was ended with an order of punishment.

9. This being the factum, the period of suspension is to be treated as a qualifying services for all purposes, including the pensionary and terminal benefits. However, the petitioner is not entitled for full salary for the said period.

10. With these observations the writ petitions stand disposed of. No Costs.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

The Additional Director (Admn.)
Treasuries Accounts Department,
Panagal Building, 2nd Floor,
No.1, Jeenis Road, Saidapet, Chennai - 600 015.

+lcc to the Government Pleader Sr.No.40752

W.P.Nos.15773 of 2014
and 23474 of 2015

GPL(CO)
RVM(15/07/2022)