



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.1694 OF 2014

M.Devan

...Petitioner

-Vs-

The Regional Manager,
The Tamil Nadu Civil Supplies Corporation,
Dharmapuri Region, Dharmapuri.

...Respondent

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings Roc.No.D1/37170/84 dated 23.12.2013 of the respondent, quash the same and consequently direct the respondent to release all the benefits like pay commission recommendations, annual increments and promotions from the date of suspension viz. 21.05.1983 till the date of dismissal viz. 20.06.2003 with heavy cost and penal interest as if the petitioner deemed to have completed the probation by virtue of order dated 19.03.2012 of this Court made in W.P.No.19711 of 2004 upheld in W.A.No. 2981 of 2012 and the Hon'ble Apex Court's order dated 04.03.2013 in SLP (Civil) No.9139 of 2013.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.C.Munusamy

ORDER

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

2. Based on a charge memo dated 22.01.1984, alleging certain lapses in the godown where the petitioner was employed as an Assistant Quality Inspector in the respondent-Corporation, he was dismissed from service on 20.06.2003. The dismissal order came to be challenged before this Court in W.P.No.19111 of 2004 and by an order dated 19.03.2012, the order of dismissal from



service was set aside and the petitioner was ordered to be reinstated into service with effect from 20.06.2003. Since the petitioner had reached the age of superannuation on 30.06.2011, this Court had directed that he shall be deemed to have retired from service on 30.06.2011. While holding so, the back wages payable to the petitioner was restricted to 50%. In this background, the respondent had passed orders on 19.03.2013, reinstating the petitioner into service with effect from 20.06.2003 as Assistant Quality Inspector.

3. During the course of all these proceedings, the petitioner was kept under suspension from 21.05.1983 to 20.06.2003, in connection with the present charge memo, as well as another charge memo dated 09.05.1984, which proceedings had ended in favour of the petitioner. When the petitioner claimed that his suspension period should be regularized as duty period, the same was rejected by the respondent through the impugned proceedings dated 23.12.2013, stating that since the petitioner has not completed his probation period, his request for regularizing the suspension period is not feasible. The said order is under challenge in the present writ petition.

4. The service of the petitioner is governed under the Tamil Nadu Civil Supplies Corporation Employees' Service Regulations, 1989. Regulation 21 under Chapter III reads as follows:-

"21. In cases where the delinquent is ultimately restored to duty, either with punishment (other than dismissal, removal, compulsory retirement or suspension as substantial punishment) or not, a separate order shall be issued as to the treatment of period spent suspension as duty. In such case, the subsistence allowance already disbursed shall be deducted from the arrear pay, unless the punishment itself is to treat the entire period or any portion thereof as one of substantive punishment. In the latter case of treating part of the suspension period as a substantial punishment of suspension, the remaining period under suspension is to be treated as duty."

5. In view of Regulation 21, as extracted above, the suspension period of the petitioner requires to be regulated as duty period, since his punishment was set aside and he was reinstated back into service. The petitioner's claim to treat the suspension period as duty period for all purposes has now been rejected only on the ground that he had not completed his probation.

6. Admittedly, the petitioner was appointed as an Assistant



Quality Inspector on 05.08.1982 and the period of probation was for 2 years. During the period of his probation, he was placed under suspension on 21.05.1983 and the suspension continued for more than 20 years. Ultimately, he was reinstated back into service and posted as Assistant Quality Inspector. Since the petitioner was placed under suspension even before completion of his probation period, he would not have been in a position to complete the probation period. Even otherwise, he was directed to be reinstated back into service through orders of this Court, which came to be complied by the respondent also. In this background, quoting the non-completion of his probation period and denying the regularization of suspension period as duty period, is not only unreasonable, but also unlawful. Thus, the reason assigned by the respondent cannot be sustained.

7. In the light of the above observations, the impugned order dated 23.12.2013 is quashed. Consequently, there shall be a direction to the respondent to regularize the petitioner's period of suspension between 21.05.1983 and 20.06.2003 as duty period for all purposes and consequentially extend the benefits of all the pay revisions applicable to him. It is needless to point out that the monetary benefits accrued during the period of suspension would be restricted to 50%. The respondent shall pass such orders within a period of 6 weeks from the date of receipt of a copy of this order. The Writ Petition stands thus allowed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk

To

The Regional Manager,
The Tamil Nadu Civil Supplies Corporation,
Dharmapuri Region, Dharmapuri.

+1cc to Mr.C.Munusamy, Advocate, S.R.No.24379
+1cc to Mr.S.Venkataraman, Advocate, S.R.No.25167

W.P.No.1694 of 2014

GP(CO)
PM/20/04/2022