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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.1837 of 2014

R.Balamurugan
S/o.Ramalingam

...Petitioner

Vs.

1. Government of Tamil Nadu
represented by its Principal Secretary,
Home, P&E (Tr.) Department,
Fort St.George, Chennai - 600 009.

2. The Principal Secretary/Transport
Commissioner & Road Safety Commissioner,
Chepauk, Chennai - 600 005.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records which culminated in issuing G.O. (D) No.605, Home (Tr.IIA) Department dated 05.08.2013 on the file of the first respondent, confirming the order in proceedings R.No.68942/VB1/2008 dated 05.05.2011 on the file of the second respondent, quash both the orders and consequently, direct the respondents to treat the period of non-employment of the petitioner from 06.11.2008 till 13.05.2011 as duty period with all consequential service and monetary benefits.

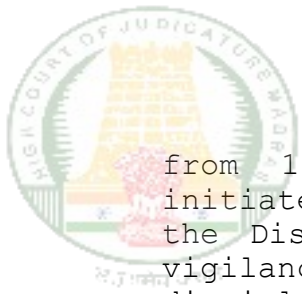
For Petitioner : Mr.P.Ganesan

For Respondents: Mr.S.Prabhakran
Government Advocate

O R D E R

The Government order passed by the first respondent in G.O. (D) No.605, Home (Tr.IIA) Department dated 05.08.2013 confirming the order passed by the second respondent in proceedings dated 05.05.2011 is under challenge in the present writ petition.

2. The writ petitioner was appointed as Junior Assistant on compassionate grounds. His services were regularised with effect



from 19.10.2001. Departmental disciplinary proceedings were initiated on account of surprise joint inspection conducted by the District Inspection Cell along with the officials of the vigilance and anti-corruption department. The departmental disciplinary proceedings ended with an order of dismissal from service. The writ petitioner raised several grounds regarding the manner in which the enquiry was conducted in violation of rules in force and preferred an appeal before the first respondent. The first respondent considered the appeal and passed final orders in G.O.(D) No.231, Home (Tr.II-A) Department dated 09.03.2011 setting aside the punishment of removal from service and modified the same as stoppage of increment for a period of two years without cumulative effect. In other words, the major penalty was modified as minor penalty. Pursuant to the modification of punishment by the Government, the writ petitioner was reinstated in service and is working.

3.The learned counsel for the writ petitioner made a submission that no doubt the writ petitioner was not in service during the pendency of the appeal before the first respondent. However, the punishment of removal from service was modified as that of stoppage of increment for a period of two years without cumulative effect and consequently, the writ petitioner was reinstated in service. Therefore, the break in service has to be regulated for the purpose of calculation of qualifying service, more specifically, for pensionary benefits. The learned counsel fairly made a submission that the writ petitioner is not insisting for monetary benefits including arrears of salary, but, he is entitled for calculation of the period of break in service for the purpose of calculation of qualifying service for pension as punishment of removal from service was set aside by the appellate authority, viz., Government and it was modified as minor punishment.

4.This Court is of the considered opinion that admittedly, the petitioner had not served from the date of removal from service till the date of reinstatement and thus, the principle "no work, no pay" would be applicable. Accordingly, the petitioner is not entitled for the arrears of salary or other monetary benefits for the period during which he had not served in the department. However, the said intervening period has to be regularised for the limited purpose of calculation of qualifying service for grant of pensionary benefits and other consequential benefits.

5.Accordingly, the respondents are directed to regulate the intervening period from the date of removal from service till the date of reinstatement as qualifying service for the purpose of grant of pensionary benefits in accordance with the rules in force. Appropriate orders in this regard shall be passed by the



respondents within a period of twelve weeks from the date of receipt of a copy of this order.

With these directions, this writ petition stands disposed of. No costs.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Principal Secretary,
Government of Tamil Nadu,
Home, P&E (Tr.) Department,
Fort St.George, Chennai - 600 009.
2. The Principal Secretary/Transport
Commissioner & Road Safety Commissioner,
Chepauk, Chennai - 600 005.

+1cc to Mr.P.Ganesan, Advocate, S.R.No.33251

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AJB(CO)
RGA(17/06/2022)