



W.P.(MD)No.4922 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4922 of 2020
and
W.M.P(MD)No.4294 of 2020

K.Sethumadhavan Thambi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Principal Secretary,
Municipal Administration and Water
Supply Department,
St.George Fort,
Chennai-600 009.
2. The Director of Town Panchayat,
“Kuralagam” Opp. Esplanade Police Station,
Government Law College,
Chennai- 600 108.
3. The Joint Director of Town Panchayat,
Nagercoil Division,
Collectorate, Nagercoil,
Kanyakumari District.



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4. The Executive Officer,
Vellimalai Town Panchayat,
Thirunainar Kurichy,
Ammandivilai Post,
Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication, issued by the 4th respondent herein in its proceedings in RC.No.265/2013-A1 dated 7.11.2019 and the annexure therein and the consequential impugned communication issued by the 4th respondent herein Rc.No.265/A/2013, dated 30.12.2019 and quash the same as illegal and consequently direct the respondents to treat the petitioner's period of suspension from 07.4.2003 to 08.3.2016 as duty period and accordingly regularize it as qualified period of service and sent a fresh pension proposal and direct the respondents to sanction and disburse a entire pension along with arrears of salary forthwith to the petitioner.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned communication issued by the 4th respondent in RC.No.265/2013-A1, dated 07.11.2019 and the annexure therein and the consequential



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impugned communication issued by the 4th respondent in Rc.No.265/A/2013, dated 30.12.2019 and consequently, direct the respondents to treat the petitioner's period of suspension from 07.4.2003 to 08.3.2016 as duty period and accordingly, regularize it as qualified period of service and sent a fresh pension proposal and direct the respondents to sanction and disburse the entire pension along with arrears of salary forthwith to the petitioner.

2. The case of the petitioner is that he was appointed as Office Assistant at Ezhudesam Town Panchayat on 22.07.1977. On 29.07.1998, the petitioner was suspended from service pursuant to the proceedings of the fourth respondent. Subsequently, he was reinstated into service on 20.09.1999. Again on 29.09.1999, he was suspended for the very same charges. Challenging the same, the petitioner filed O.A.No.6460 of 2001 before the Tamil Nadu Administrative Tribunal, Chennai. The Tribunal vide order, dated 22.08.2002, directed the fourth respondent to reinstate the petitioner. Subsequently, vide order dated 31.10.2003, the petitioner was suspended for the very same charges for



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which, earlier he was suspended. However, no disciplinary proceedings were initiated as against the petitioner. As the petitioner was placed under prolonged suspension, he filed W.P(MD)No.1372 of 2016 wherein this Court stayed the suspension order and directed the respondents to permit the petitioner to retire from service on 31.03.2016 and to pay subsistence allowance. Thereafter, the petitioner has been paid with arrears of subsistence allowance in installment basis and in total, he has been paid with Rs.4,62,232/- towards subsistence allowance from 11.03.2005. Subsequently, disputing the calculation adopted, the petitioner sent a representation to the third respondent on 06.10.2016. Subsequently, the fifth respondent herein sent a communication to the petitioner on 14.05.2019, saying that the period of suspension from 07.04.2003 to 08.03.2016 has been treated as duty in the leave account, but there is no entry in the service book. For that, the petitioner sent a detailed reply pleading that the service book is maintained by the authority concerned and the might have been made by the authorities. Thereafter, the fourth respondent sent the communication, dated 07.11.2019, along with an annexure, which is impugned herein, as per



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which, the petitioner was not given actual entitlement and benefits and hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that after passing the impugned order, a proposal was forwarded to the first and second respondents and therefore, this Court may issue a direction to the first and second respondents to conclude the pension proposal and pay the eligible monetary benefits to the petitioner.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. Admittedly, the petitioner suffered various suspension orders for unauthorized absent. He reached the age of superannuation and retired from service. However, the period of suspension was not regularized. Hence, the fourth respondent passed the impugned order. However, the terminal benefits has to be paid by the competent authority.

6. In view of the same, the first and second respondents are



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directed to conclude the pension proposal within a period of twelve weeks from the date of receipt of a copy of this order, after affording opportunity to the petitioner.

7. With the above direction, this writ petition is disposed of.
No Costs. Consequently, connected miscellaneous petition is closed.

15.12.2022

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To

1. The Principal Secretary, State of Tamil Nadu,
Municipal Administration and Water
Supply Department, St. George Fort, Chennai-600 009.
2. The Director of Town Panchayat,
“Kuralagam” Opp. Esplanade Police Station,
Government Law College, Chennai- 600 108.
3. The Joint Director of Town Panchayat,
Nagercoil Division, Collectorate, Nagercoil, Kanyakumari District.
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M.DHANDAPANI,J.



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