



WEB COPY

W.P(MD)1



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No. 3833 of 2018

and

W.M.P. (MD)No.3968 of 2018

1. **(*)S.Rajendran (died)**

2. Mangaiyarkarasi

3. Surendar

4. Arunprasath

5. Sagunthala

... Petitioners

[P-2 to P-5 are substituted vide Court order, dated 21.12.2021]

Vs.

1. The District Collector,
Thanjavur District, Thanjavur.

2. The Assistant Project Officer,
(Housing and Health),
District Rural Development Agency,
Thanjavur District, Thanjavur.

3. The Director of Rural Development
and Panchayat Raj,
Government of Tamilnadu,
Panagal Building, Chennai - 600 015,
Tamil Nadu State Marketing Corporation Limited,
Thanjavoore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus***, to call for the records pertaining to the impugned order 1.Na.Ka.No.2263/2015/Ka.4 dated 24.06.2016 on the file of 1st respondent and 2.Na.Ka.14979/2015/DPC 1-1 on the file of 3rd respondent in respect of the petitioner and quash the same and consequently direct the respondent to settle the petitioner all monetary benefits with continuity of service, back wages, pension, gratuity and with all other terminal monetary benefits according to law.

For Petitioner : M/s.A.Prasanna Rajadurai,
For Respondents : Mr.P.Thambidurai
Government Advocate



ORDER

This Writ Petition has been filed to quash the impugned orders 1.Na.Ka.No.2263/2015/Ka.4 dated 24.06.2016 on the file of 1st respondent and 2.Na.Ka.14979/2015/DPC 1-1 on the file of 3rd respondent, in respect of the petitioner and also seeking consequential direction to the respondents to settle all monetary benefits with continuity of service, back wages, pension, gratuity and all other terminal monetary benefits, to the petitioner.

2. Heard M/s.A.Prasanna Rajadurai, M.Kubendran, learned counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents. Perused the material documents available on record.

3. The deceased petitioner/(*)**S.Rajendran** had joined service, as Overseer at Kadalur Panchayat Union on 08.07.1982. The petitioner was absented from duty, without prior permission in three spells. The respondents have initiated disciplinary proceedings against the petitioner by issuing show cause notice. After giving sufficient opportunity, the respondents have imposed punishment of dismissal from service. The writ petitioner has challenged the said dismissal order in this writ petition. Pending writ petition, the petitioner P.Rajendiran died on 27.03.2020, subsequently, his legal heirs have substituted themselves, vide order of this Court, dated 21.12.2021.

4. The claim of the deceased petitioner is that enquiry was not conducted properly. The enquiry officer has directed the petitioner to narrate his explanation and the petitioner had narrated. The petitioner was under the impression that the enquiry officer has accepted his explanation. But, the enquiry officer has held that he has accepted the guilt and held the charges are proved. The petitioner has challenged the enquiry report in writ petition as well as the appellate and there were two rounds of litigation and this is the third round of litigation. Pending the third round of litigation, the employee died.

5. The petitioner had submitted an explanation that, initially he was absented for the period from 3/2010 to 5/2010. The respondents have stopped paying the monthly salary for the month of March 2010, however, the petitioner has received salary for the months of 4/2010 and 5/2010. The respondents have restrained the petitioner from affixing signature and has stated based on the direction of the District Collector he was not allowed to affix the signature. However, the respondents have intimated to the District Collector that the petitioner has not returned to duty. The petitioner has submitted proper explanation and thereafter, charge under Section 17(a) of Tamil Nadu Civil Services (Discipline and



Appeal Rules, was issued. The petitioner has submitted detailed letters several times and had prayed to grant permission to rejoin the service. However, the respondents have denied the said permission. In such circumstances, the allegation that the petitioner had not reported to duty is false. Therefore this Court is of the considered opinion that the initiation of disciplinary proceedings by the respondents itself is erroneous. It is seen that the respondents have issued the charge memo under Section 17(a) and not under 17(b). Moreover, pending writ petition the employee died. Therefore, this Court is inclined to quash the impugned order on equity.

6. The deceased employee was in service from 08.07.1982 and the petitioner had served until 18.02.2010. Therefore, the deceased employee is entitled for monetary benefits, service benefits and terminal benefits for a period from 08.07.1982 to 18.02.2010. For the period from 19.02.2010 until 30.06.2015, the petitioner is entitled to continuity of service, but no monetary benefits and the said period shall be calculated for pensionary benefits. The pensionary benefits shall be granted to the legal heirs of the deceased employee, that is the substituted petitioners, within a period of 12 weeks from the date of receipt of a copy of the order.

7. Accordingly, with the above directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

(*Corrected as per the order of this court dated 17.03.2023 in WP (MD).No. 3833/18 of this Hon'ble Court

Sd/-

Assistant Registrar (CS I)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

ksa

(*To be substituted the order already despatched on 10.02.2023 & 17.03.2023

To

1. The District Collector,
Thanjavur District, Thanjavur.



2. The Assistant Project Officer,
(Housing and Health),
District Rural Development Agency, Thanjavur District,
Thanjavur.

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3. The Director of Rural Development
and Panchayat Raj,
Government of Tamilnadu,
Panagal Building, Chennai - 600 015,
Tamil Nadu State Marketing Corporation Limited, Thanjavoor.

+1 CC to M/s.SPL.GP (SR-62577[F] dated 16/12/2022)

+1 CC to M/s.M.KUBENDRAN, Advocate (SR-61965[F] dated 14/12/2022)

W.P. (MD) No. 3833 of 2018
14.12.2022

MGJ(02.02.2023) 4P 6C
KB(17.03.2023) 4P 6C
KB(31..03.2023) 4P 6C