



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.01.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.15753 of 2014

WEB COPY

A.Lakshmanan ... Petitioner
vs

1. The Secretary to Government and
Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

2. The Director of Municipal Administration and
Water Supply Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Commissioner,
Manapparai Municipality,
Manapparai, Trichy District. ... 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 relating to the impugned order of the third respondent dated 30.01.2006 in Na.Ka.No.3890/2002/C1 and quash the same and consequently, directing the respondents to treat the period of suspension of the petitioner namely 02.09.2002 to 29.12.2004 (850 days) as duty of all purpose and also directing the respondents to disburse the service and monetary benefits together with interest and to fix the pay of the petitioner within the time stipulated by the Court.

***(Prayer amended, vide Court order, dated 07.02.2020
in W.M.P. (MD)No.1711 of 2020 in W.P. (MD)No.15753 of 2014
by JNBJ)***

For Petitioner : Mr.P.Santhoshkumar

For Respondents : Mr.N.Ramesh Arumugam for R1 & R2
Government Advocate (Civil Side)
Mr.J.Lawrence for R3

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the third respondent, dated 30.01.2006 and consequently, directing the respondents to treat the period of suspension of the petitioner namely 02.09.2002 to 29.12.2004 (850 days) as duty of all purpose



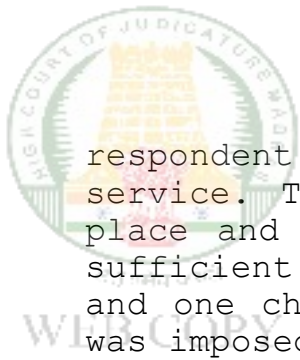
and also directing the respondents to disburse the service and monetary benefits together with interest and to fix the pay of the petitioner within the time stipulated by the Court.

2. The petitioner was working as a Junior Assistant from 23.03.1992 in the third respondent Municipality and the petitioner was placed under suspension on 02.09.2002. A Charge Memo, dated 11.09.2002, was issued framing six charges and the petitioner submitted an explanation. After the lapse of two years, the petitioner was reinstated, vide order, dated 30.12.2004, subject to final decision on the Charge Memo. Thereafter, the petitioner was transferred to Senkottai Municipality in the year 2005. The petitioner has approached this Court in W.P.(MD)No.1577 of 2005 to quash the disciplinary proceedings and this Court was pleased to direct the third respondent to conclude the proceedings within two months, vide order, dated 22.03.2005. Since the respondent has not passed any order, again the petitioner has filed a writ petition in W.P.(MD)No.9312 of 2005. This Court directed the third respondent, vide order, dated 30.11.2005, to pass final orders within two months. Thereafter, the third respondent concluded the enquiry and out of the six charges, the first charge alone was held to be proved and the punishment of "Censure" was awarded, vide order, dated 16.12.2005.

3. The third respondent has also passed an order, dated 30.01.2006, where the suspension period from 02.09.2002 to 29.12.2004 was treated as a leave period and hence the petitioner could not get any salary for the said period. Aggrieved over the same, the petitioner has preferred a writ petition in W.P.(MD) No.5626 of 2006, challenging the punishment of censure and this Court, vide order, dated 10.07.2009, quashed the punishment of Censure and this Court directed to include the petitioner's name in the panel also.

4. Therefore, the petitioner submitted a representation, dated 19.11.2009, to disburse the arrears of salary by treating the suspension as a duty period. Since the respondent fails to do so, the petitioner has come up with the present writ petition. Pending this writ petition, the respondents have passed an order, dated 30.01.2006. Therefore, the petitioner has preferred a miscellaneous petition to amend the prayer and the same was ordered. Now the petitioner is seeking to quash the impugned order, dated 30.01.2006 and consequently, to direct the respondents to treat the suspension period as a duty period and consequently, to pay all the monetary service.

5. The third respondent has filed a counter affidavit stating that the petitioner was disobeying the orders of the Superior Authorities and he was charged with six charges. The third



respondent took a lenient view and reinstated the petitioner into service. The enquiry officer appointed was transferred to another place and now another enquiry office was appointed. After giving sufficient opportunity to the petitioner, an enquiry was conducted and one charge was proved and therefore, the punishment of Censure was imposed.

6. Heard Mr.P.Santhoshkumar, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 1 and 2 and Mr.J.Lawrence, learned Counsel appearing for the third respondent.

7. On perusing the papers, it is seen that six charges were imputed against the petitioner and only one charge was proved and that was also quashed by this Court W.P.(MD)No.5626 of 2006. Therefore, the punishment of Censure was quashed and there is no punishment against the petitioner. In the said circumstances, the suspension period ought to be regularized as a duty period and the petitioner is entitled to full salary as well as the increments. Therefore, this Court is directing the third respondent to regularize the service of the petitioner as a duty period from 02.09.2002 to 29.12.2004 and grant all monetary benefits. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

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Municipal Administration and Water Supply Department,
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2. The Director of Municipal Administration and
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3. The Commissioner,
Manapparai Municipality,
Manapparai, Trichy District.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-1042[F] dated 10/01/2022)

+1 CC to M/s.SPL.GP (SR-988[F] dated 10/01/2022)

W.P. (MD) No.15753 of 2014

07.01.2022

MGJ(18.02.2022) 4P 6C