



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.19409 of 2018

P.Selvan

... Petitioner

vs

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Special Tahsildar (Social Security Shceme)
Devakottai,
Sivangangai 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 of the first respondent i.e., the District Collector Sivagangai relating to the impugned orders passed in her Na.Ka.A2/22906/2017, dated 20.8.2018 and quash the same and consequently, direct the first respondent i.e., the District Collector, Sivagangai, to treat the petitioner's period of dismissal from 23.07.2007 to 25.12.2014 as duty as per the specific provisions contained under Fundamental Rule 54 (B) Ruling 9, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

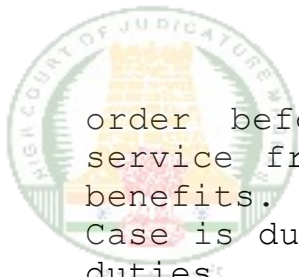
For Respondents : Mr.P.Thambidurai

Government Advocate (Civil side)

O R D E R

This Writ Petition is filed challenging the impugned order, dated 20.08.2018 and consequently, direct the first respondent to treat the petitioner's period of dismissal from 23.07.2007 to 25.12.2014 as duty period.

2. The brief facts of the case are that the petitioner was convicted in a criminal proceeding and based on the conviction, the respondents have dismissed the petitioner from service on 16.07.2007. After dismissal of service, in the Criminal Appeal No.11 of 2007, the petitioner was acquitted, vide order, dated 05.02.2014. Thereafter, the petitioner has submitted the acquittal



order before the respondents and prayed for regularizing his service from 23.07.2007 to 25.12.2014 and to grant all monetary benefits. The petitioner has also submitted that the Criminal Case is due to private dispute and nothing to do with the official duties.

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3. The first respondent has filed a counter affidavit stating that as per Fundamental Rights 54B(5)(i)(b) 2nd proviso, "If no order is passed directing that the period of absence be treated as duty for any specified purpose, then the period of absence should be treated as "non duty period"

4. Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents.

5. The contention of the respondents are that if no order was passed to consider as absence to be treated as duty period, then the said period should be treated as non duty period. The said contention of the respondents is erroneous. The claim of the petitioner is to pass an order based on the acquittal order passed in a Criminal Case. On acquittal, the delinquent is entitled to consider his absence as duty period as per Fundamental Rule 54 (B) Sub Clause-9. Therefore, the petitioner is entitled to consider his absence from 23.07.2007 to 25.12.2014 as duty period. The respondents are directed to pass an order that the period from 23.07.2007 to 25.12.2014 as duty period within a period of four weeks from the date of receipt of a copy of this order and consequently, confer all the monetary benefits to the petitioner.

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

Sd/-

Assistant Registrar (CS-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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Special Tahsildar (Social Security Shceme)
Devakottai,
Sivangangai District.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-5082[F] dated
09/02/2022)

+1 CC to M/s.SPL.GP (SR-5707[F] dated 11/02/2022)

Order made in
W.P.(MD)No.19409 of 2018

09.02.2022

USK/01.03.2022/3P/5C