



W.P.No.26763 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09.02.2023
Pronounced on	08.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.26763 of 2017

V.Sathiyamoorthy

... Petitioner

Vs.

The Principal Secretary / Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent herein in his proceedings Proc. No.37198/Estt.(DP)/A2/2009-3 dated 13.04.2017 and quash the same and consequently direct the respondent herein to treat the period of suspension from 05.08.1994 to 28.03.2003 as duty for all purposes as per Ruling – 9 of Fundamental Rule 54 including monetary and service benefits, within a time frame as fixed by this Court.

For Petitioner

: Mr.R.Singaravelan, Sr. Counsel
for Mr.T.Ranganathan

For Respondents

: Mr.S.Silambanan, AAG
Asst. by M/s.S.Shahila Banu



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O R D E R

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Through an order dated 30.07.1994, the petitioner was placed under suspension from service for his involvement in a criminal case registered in FIR in Cr. No.2/AC/88/HQ by the Vigilance and Anti Corruption Wing. The FIR that culminated into the Calender Case No.55/2011 was quashed by this Court in Crl.O.P.25179 of 2015 on 08.10.2015. When the petitioner sought for regulating his period of suspension between 05.08.1994 and 28.03.2003, the respondent through the impugned order dated 13.04.2017, treated the same as period of leave for which he is eligible except Medical Leave. Challenging the same, the present Writ Petition has been filed.

2. Heard Mr. R.Singaravelan, learned Senior counsel for the petitioner and Mr.S.Silambanan, learned Additional Advocate General appearing on behalf of the respondent.

3. The Fundamental Rules of the Tamil Nadu Government deals with the mode in which the period of suspension of a Government servant requires to be regulated. As per FR 54 Ruling (9), where a Government servant is placed under suspension in view of the fact that



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a complaint against him of any criminal offence is under investigation or trial and subsequently, acquitted by a Court of Law on any ground, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been otherwise entitled to.

4. If and when the aforesaid FR 54 Ruling 9 is applied to the case of the petitioner, his period of suspension requires to be considered as 'duty period' for all purposes in view of the order of this Court passed in Crl.O.P.25179 of 2015, quashing the criminal proceedings. Thus, the impugned order dated 13.04.2017, treating his suspension period as leave for which he is eligible except Medical Leave, is opposed to the aforesaid Fundamental Rule and therefore, cannot be sustained.

5. Furthermore, the impugned order also takes into account the imposition of the punishment to the petitioner on the departmental proceedings in connection with certain irregularities in execution of Uthagamandalam WSIS in HADP Division Ooty. Apparently, the petitioner was not placed under suspension in contemplation of a



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departmental action, but only for his involvement in the criminal case and hence, reliance on the punishment imposed will have no nexus to the order of suspension. The order of suspension dated 30.07.1994, also does not refer to any contemplation of a departmental proceedings. Hence the reference in the impugned order to the departmental proceedings, is grossly misplaced.

6. In the result, the impugned order passed by the respondent herein in Proc.No.37198/Estt.(DP)/A2/2009-3 dated 13.04.2017, is quashed. Consequently, there shall be a direction to the respondent herein to treat the petitioner's period of suspension from 05.08.1994 to 28.03.2003, as 'duty period' for all purposes in accordance with FR 54 Ruling 9 and disburse all the monetary and service benefits, within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. There shall be no order as to costs.

08.03.2023

Index : Yes
Order : Speaking
Neutral Citation : Yes

DP



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To

The Principal Secretary / Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.



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M.S.RAMESH,J.

DP

ORDER MADE IN
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08.03.2023