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W.P.No.28867 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.28867 of 2018

K.Chandhran

... Petitioner

Vs.

1.The Collector
Vellore, Vellore District

2.The Director
Rural Development Department
Chennai-600 015

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to pass final orders thereby implementing the communication in Na.Ka.No.A6/3547/2009 dated 17.05.2011 together with interest in a time bound period.

For Petitioner : Mr.K.MohanaMurali

For Respondents : Mr.L.S.M.Hasan Fizal, AGP



W.P.No.28867 of 2011

ORDER

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This Writ petition has been filed for issuance of Writ of Mandamus directing the 1st respondent to pass final orders thereby implementing the communication in Na.Ka.No.A6/3547/2009 dated 17.05.2011 together with interest in a time bound period.

2. The case of the petitioner is that he was working as a noon meal organizer in the Government Higher Secondary School, Serkadu, Katpadi Panchayat Union, Vellore District. A chargememo was issued in Na.KA.PG1/3831/1996 dated 20.03.1997 and explanation was given on 15.04.1997 denying the charges framed against him. No enquiry was conducted and dismissed the proceedings in Na.KA.PG1/3831/1996 dated 31.07.1997. The 1st respondent preferred an appeal on 05.08.1997 calling for remarks. After perusal of the records the 2nd respondent recorded criminal case is pending against the petitioner before the Judicial Magistrate , Vellore and without prejudice of the criminal case dismissed the appeal and allowed the order passed by the 2nd respondent by an order dated 27.04.2000. Further, he would submit that the petitioner was acquitted from the criminal case by an order dated 20.01.2005. The petitioner sent a representation to the 2nd respondent for outstanding amount for the period of 01.12.1996 to 10.09.2004. The 2nd respondent sent a communication to the 1st respondent seeking suitable direction to



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dispose of the representation dated 10.09.2004. But no action was taken by the 1st respondent. As there was no reply from the 1st respondent the petitioner has filed the present Writ Petition.

3. Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader, appearing for the respondents 1 and 2 filed a detailed counter affidavit stating that while the petitioner was working as noon meal organizer in Government Higher Secondary School at Serkadu, Katpadi Panchayat Union on 06.12.1996, the Head Master lodged a police complaint against the petitioner that he had smuggled 3 bags of noon meal rice value for a sum of Rs.2800/-. A case was filed U/s. 173(2) of Cr.P.C and U/s.381 of IPC and it was brought to the notice of the respondents. Hence, the petitioner was suspended from service from duty on 01.12.1996. Thereafter, he was removed from service vide 1st respondent proceedings No.3831/PG-1/1996 dated 31.07.1997. the Trial Court, in CrI.Case.No.,295/2002 has acquitted the petitioner by judgment dated 20.10.2005. But the petitioner has not requested the respondents to re-instate him into service.

4. When the criminal case was pending the petitioner gave his resignation to the Commissioner of Panchayat Union, Katpadi on 10.09.2004. In the meanwhile, the petitioner without getting any prior permission or given any intimation for participation in the interview to the post of Elementary School Teacher on 2004



onwards and then he joined in the Elementary School Teacher post in the Sholinghur Panchayat Union Elementary school on 2004. Thereafter, he was transferred to Gangapuram Elementary School of Gudiyatham Panchayat Union on 30.11.2005. The Assistant Elementary Educational Officer of Gudiyatham Panchayat Union has also certified that at present the petitioner is working in Gangapuram Government Elementary School.

5. The petitioner requested to regularise the absence period from 31.07.1997 to 10.09.2004 as duty. The same was rejected by the respondents. The 2nd respondent has sent a reply to the petitioner vide Letter No.A6/3547/2009 dated 29.12.2012. The petitioner did not continue in service beyond 31.07.1997 and tendered his resignation when criminal case was pending against him on 10.09.2004. Even though he was acquitted, he did not request the respondents to reinstate him in service. The break in service on the part of the petitioner shall only be treated as on duty and hence he is not entitled for backwages for the absence period from 31.07.1997 to 10.09.2004 and prayed for dismissal of the Writ Petition.

6. Heard Mr.K.Mohanamurali, learned counsel for the petitioner and Mr.L.S.M.Hasan Fikal, learned Additional Government Pleader appearing for the respondents.



7. This Court has heard the submissions made by the counsel on either side.

On going through the counter affidavit filed on behalf of the respondents, it is seen that the petitioner had absented himself from duty in the year 1997 onwards and he has tendered his resignation in the year 2004 even before he was acquitted in the criminal case by the Trial Court on 20.10.2005. The petitioner has not even informed the respondents that he joined as Elementary School Teacher in the Sholinghur Panchayat Union Elementary School on 2004.

8. Now, the petitioner has come forward with this present Writ Petition seeking to regularize his period of absence from 31.07.1997 to 10.09.2004 as duty and the same cannot be done for the simple reason that the petitioner has absented himself from duty without any information to the respondents and based only of the judgment of the Trial Court dated 20.10.2005 the petitioner has requested to consider his break in service from 31.07.1997 to 10.09.2004 for backwages for the absence period. It is revealed that the petitioner is not entitled to any backwages as he did not inform the respondents and even after the acquittal he did not ask for reinstatement and also hiding the fact that he had joined as Elementary School Teacher in the year 2004.



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9. In view of the above said position, the Writ Petition is entitled to any relief as prayed for by him in the Writ Petition. Accordingly, the Writ Petition is dismissed.

No costs.

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Index:Yes/No

Internet:Yes/No

Speaking / Nonspeaking order
kpr

To

1.The Collector

Vellore, Vellore District

2.The Director

Rural Development Department

Chennai-600 015



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V.BHAVANI SUBBAROYAN J.

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