



W.P.(MD)No.540 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 540 of 2019

and

W.M.P(MD)Nos. 443 & 444 of 2019

S.Amutha

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Additional Chief Secretary,
Revenue Administration Commission,
Department of Revenue,
Administration Natural Calamity Relief Management,
Chepauk,
Chennai – 600 005.

2. The District Collector,
Kanyakumari District,
Nagercoil.

3. The Personal Assistant to the District Collector,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the impugned order,



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dated 20.08.2015 made in ROC No. A1/28185/2015 passed by the 2nd respondent and quash the same as illegal and devoid of merits and subsequently direct the 2nd and 3rd respondents to regularize the period of suspension as from 07.04.2013 to 28.05.2013 and subsequent dismissal as from 30.11.2013 to 16.10.2014 on the basis of the order of the 1st respondent made in Na.Ka.Pani 4(3)/50772/2014 dated 29.06.2015 and consequently disburse the back wages and benefits as admissible during the relevant period with further promotion from the existing post at par with her juniors forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 20.08.2015 with consequential relief to pay backwages.

2. Heard Mr.S.Palani Velayutham, learned counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate, appearing for the respondents. Perused the material documents available on record.



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3. The petitioner has joined service as Junior Assistant on 11.04.2012. On 06.04.2013, he has placed under suspension for alleged lapses while discharging his duties, then a charge memo was issued and after enquiry the petitioner was dismissed from service on 29.11.2013.

4. The petitioner has preferred an appeal before the 2nd respondent and the punishment was modified as stoppage of increment for three years with cumulative effect, vide order, dated 16.10.2014. Thereafter, the petitioner was reinstated back into service. The petitioner again preferred a revision and further punishment was reduced into stoppage of increment without cumulative effect. Thereafter, the petitioner has approached the 2nd respondent to regularize his service during suspension as well as dismissal period. The 2nd respondent has passed the impugned order, stating that the 1st respondent while reducing the punishment has not stated to regularize the service for the suspension period as well as the dismissal period. This is the only reason cited in the impugned order.



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5. This Court is not able to appreciate the order since the District Collector ought to have sought clarification from the 1st respondent, whether the said period ought to be regularized or it has to be treated otherwise. Without obtaining any clarification, the 2nd respondent has come to the conclusion, since the 1st respondent has not indicated to regularize the said period, he has not regularized the said period. Once dismissal order was modified, the suspension period and the dismissal period should be automatically regularized, if it is not stated otherwise. Hence, the order of the 2nd respondent is against the Fundamental rules.

6. Therefore, this Court is inclined to set aside the impugned order, dated 20.08.2015. The respondents are directed to regularize the suspension period and the period of dismissal. Consequently, the petitioner is entitled to service benefits and monetary benefits and the same shall be paid. The said exercise shall be completed within a period of eight weeks, from the date of receipt of a copy of the order.



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7. For the above reasons, this Writ Petition is allowed to the extent as stated supra. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes
ksa

10.03.2023

To

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S.SRIMATHY, J

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**Order made in
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