



W.P.(MD).No.16271 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16271 of 2022

and

W.M.P(MD) Nos.11758 and 11762 of 2022

C.Muthukrishnan

... Petitioner

Vs.

1. The Director of Elementary Education,
Chennai – 6.

2. The Chief Educational Officer,
Madurai – 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in his proceedings in R.C.No.024014- (2)/13/2010, dated 02.08.2010 and quash the same and direct the respondents to regularize the suspension period as service period with all consequential benefits.

For Petitioner : Mr.V.Panneer Selvam

For Respondents : Mr.V.Om Prakash
Government Advocate



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ORDER

The present writ petition has been filed by an Assistant Elementary Educational Officer challenging the order of suspension dated 02.08.2010 on the ground that it is prolonged in nature.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was placed under suspension on 02.08.2010 for demand and acceptance of illegal gratification of Rs.2,000/- (Rupees Two Thousand only) from a Secondary Grade Teacher. Pending Prevention of Vigilance and Anti-Corruption proceedings, the petitioner was placed under suspension. According to the learned counsel appearing for the writ petitioner, the petitioner was acquitted by the Special Court for Trial of Prevention of Corruption Act Cases, Madurai in S.C.No.16 of 2012, on 27.02.2020. Challenging the same, the State has filed an appeal and the same is pending.

3. According to the learned counsel appearing for the petitioner, since he has been acquitted in Prevention of Vigilance and Anti Corruption proceedings, the authorities ought to have reinstated him. The petitioner has



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sent a representation to the authorities on 09.06.2021 citing his acquittal and sought for reinstatement. Since there is no response, the present writ petition has been filed challenging the order of suspension.

4. The learned counsel appearing for the petitioner has relied upon the Division Bench judgment of the this Court in ***W.A(MD) No.1026 of 2017, dated 10.08.2017 (the Chief Engineer and another Vs.K.Chinnappa)*** wherein, the Honourable Division Bench was pleased to confirm the order of the learned Single Judge in revoking the order of suspension, after being acquitted in the criminal proceedings.

5. Per contra, the learned Government Advocate appearing for the respondents herein contended that since the appeal as against the acquittal is pending before this Court, it would not be appropriate to reinstate the writ petitioner.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.



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7. There is no dispute that the petitioner has been placed under suspension on 02.08.2010 pursuant to the initiation of criminal proceedings under the Prevention of Vigilance and Anti-Corruption. The petitioner has been acquitted by the criminal Court, by an order, dated 27.02.2020 and the appeal has been filed by the State before this Court and the same is pending. The Hon'ble Division Bench, on similar facts, had confirmed the order passed by the learned Single Judge, wherein, the order of suspension was revoked and Paragraph Nos. 4, 5 and 6 are extracted as follows:

“.... 4. We cannot agree with the said submission. The writ petitioner was suspended only because he was implicated in a criminal case. In view of the acquittal order of suspension cannot be allowed to continue. Therefore, the learned single Judge was right in indicating that the suspension has to be revoked.

5. The appellants apprehend that if suspension is revoked, the writ petitioner would seek regularization of entire period of suspension as duty period and also monetary benefits No such directions have been issued by the learned single Judge. In any event, the writ petitioner would be entitled to all benefits, since the date of acquittal i.e., 18.05.2016. Of course, the question of



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regularizing the suspension period and payment of monetary benefits have to await the out come of the Criminal Appeal.

6. We are of the view that this Writ Appeal has been filed on a mere apprehension. We find no merits in the Writ Appeal and it stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.”

8. In view of the judgment of the Hon'ble Division Bench, the order impugned in the writ petition is set aside. The respondents are directed to revoke the order of suspension. However, by revoking the order of suspension and reinstating the writ petitioner, the writ petitioner would not be entitled to all the benefits on the date of his acquittal with regard to the regularization of the period of suspension prior to the date of acquittal. It will depend upon the result of the appeal pending before this Court. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.



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9. With the above said observations, this Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

20.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Director of Elementary Education,
Chennai – 6.

2. The Chief Educational Officer,
Madurai – 2.



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R.VIJAYAKUMAR,J.

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