



W.P.No.4982 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.4982 of 2020 and
W.M.P.No.5883 of 2020

S.Sathyamurthy

... Petitioner

Vs.

- 1.The Joint Director of School Education,
(Secondary Education),
Directorate of School Education,
No.17, College Road, Nungambakkam,
Chennai 600 008.
- 2.The Chief Education Officer,
Vellore District,
School Education Department,
Collectorate, Sathuvachari,
Vellore 632 009.
- 3.The District Educational Officer,
Vellore District,
Fort Round Road,
Vellore 632 001.
- 4.N.Krishnasamy mudaliyar Higher Secondary School,
Sainathapuram,
Vellore 632 001, Rep by its Secretary.



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5. The Principal Accountant General (A&E),
Office of the Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai 600 018.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings bearing No.Na.Ka.253/B1/2019 dated 07.03.2019 received by the petitioner on 08.04.2019 passed by the third respondent, quash the same and direct the respondents to consider the petitioner's wife's suspension period from 12.01.2005 to 23.03.2014 as in service period and pay the terminal benefits of the petitioner's wife including family pension and gratuity of his wife to the petitioner.

For Petitioner : Mr.T.S.Thevaraj

For Respondents : Mr.P.Gurunathan, AGP

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings bearing No.Na.Ka.253/B1/2019 dated 07.03.2019 received by the petitioner on 08.04.2019 passed by the third respondent, quash the same and direct the respondents to consider the petitioner's wife's suspension period from 12.01.2005 to 23.03.2014 as in service period



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and pay the terminal benefits of the petitioner's wife including family pension and gratuity of his wife to the petitioner.

2. Heard Mr.T.S.Thevaraj learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents.

3. The petitioner is the husband of one Nirmala who worked as B.T.Assistant (Tamil) in the fourth respondent School at the time of her death (i.e) on 28.10.2016.While she was in service, a charge memo was issued to her and she was also placed under suspension from 12.01.2005. The said order was challenged by the Nirmala by way of preferring W.P.No.20161 of 2005. The said Writ Petition was allowed and the order of suspension was set aside. The said order was challenged by the respondents in W.A.No.504 of 2006 and the same was also dismissed on 07.07.2006. A direction has been given in the said Appeal to pay subsistence allowance for the period under which Nirmala was kept under suspension.



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4. In the enquiry proceedings, the charge against Nirmala was proved and she was imposed with the punishment of termination of her services and the said proposed punishment was communicated to the third respondent by the 4th respondent on 24.04.2006. The third respondent rejected the same. Subsequently, Nirmala was reinstated into service and she died on 28.10.2016. Subsequent to her death, the petitioner who is the husband of the deceased Nirmala had given a representation to release her gratuity, insurance and family pension etc. The fifth respondent returned the representation of the petitioner by stating that the period of suspension of the petitioner's wife Nirmala has not been regularised.

5. But there need not be any doubt about the continuity of service of the period under which the petitioner's wife Nirmala was kept under suspension. Because, in the order passed in W.P.No.34169 of 2007 itself the Court has clearly mentioned that the petitioner should be given with full wages by restoring her services. That would only mean that the petitioner's wife's services have to be regularised as duty period and



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nothing else. So it is wrong on the part of the third respondent to delete the services of Nirmala during the period when she was kept under suspension by considering that it was a break in service. Despite the recommendation for terminating the service of the petitioner was rejected by the third respondent, the fourth respondent School has filed a Writ Petition in W.P.No.16943 of 2012 and the same was dismissed by making the following observation:

"14. The Chief Educational Officer, Vellore, should ensure that the employee is paid her entire arrears up to date in the present pay structure and in case it is paid, the application of approval should be considered by the competent authority. Such exercise shall be completed within a period of three months from the date of payment of the entire arrears to the employee by the management. The management is granted three weeks time to pay the entire arrears. In short, the question of granting approval will be decide by the competent authority only after payment as indicated above."

6. In the above order it is observed that the question of granting approval for the termination order can be considered by the competent



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authority only after settling the backwages for the period under which the petitioner's wife was kept under suspension. However with regard to the punishment, no further orders have been passed so far. Since the employee died, all those disciplinary proceedings which would be pending against the deceased employee at the time of her death ought to have been abandoned. Even while forwarding the representation of the petitioner to the third respondent, the fourth respondent did not state anything about regularisation of the services of Nirmala during the period she was kept under suspension. Only if the fourth respondent writes a letter to the third respondent that the services of Nirmala as per the rules have been regularised inclusive of the period under suspension (i.e) 9 years 2 months and 12 days, further orders can be passed by the other Government respondents.

7. In the result, this Writ Petition is allowed and the proceedings bearing No.Na.Ka.253/B1/2019 dated 07.03.2019 passed by the third respondent is quashed. The fourth respondent is directed to send appropriate communication to the Government authorities with regard to



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the regularisation of Nirmala's services during the suspension period within a period of two weeks from the date of receipt of a copy of this order. Even in the event of not getting any communication from the fourth respondent to that effect, the respondents 1 to 3 are directed to pass an order afresh by including the period of suspension of the petitioner's wife Nirmala as qualifying service along with the service already been included for the purpose of pension and fix the pension afresh and issue orders within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

22.03.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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(Secondary Education),
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2.The Chief Education Officer,
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3.The District Educational Officer,
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4.The Secretary
N.Krishnasamy mudaliyar Higher Secondary School,
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