IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.33613 of 2013
and
M.P.No.1 of 2013

A.Thangam ... Petitioner

Vs.

1. The State of Tamil Nadu,
   Represented by the Secretary to Government,
   Revenue Department, Fort St.George,
   Chennai – 9.

2. The Principal Commissioner and the
   Commissioner of Revenue Administration,
   Chepauk, Chennai – 5.

3. The District Revenue Officer,
   Office of the the District Revenue Officer,
   Tuticorin District.

4. The Revenue Divisional Officer,
   Office of the Revenue Divisional Officer,
   Kovilpatti, Tuticorin District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the 3rd respondent issued in Na. Ka. No.B1/29462/09 dated 3.8.2009 and the proceedings of the 4th respondent in Na. Ka. NO.A1/173/92 dated 24.5.1998 and quash the same with the consequential direction, directing the respondents to treat the period of Suspension as duty period with full and allowances and to revise pensionary benefits correspondingly

For Petitioner : Mr.M.Devaraj

For Respondents : Mr.K.H.Ravikumar, Government Advocate

<u>O R D E R</u>

The petitioner herein was appointed as 'Village Administrative Officer' on 21.10.1982. While the petitioner was working as such, he was subjected to disciplinary proceedings by issuing charge-memo bearing ROC.A2/173/92, dated 09.07.1992, containing four charges. Out of the four charges that are levelled against the petitioner, charges 1 and 2 are pertaining to involvement of the petitioner in Crime No.2 of 1992 of the Pasuvanthanai Police Station under Section 354 of IPC, whereas the Charge No.3 is with regard to the petitioner not residing in the Keelamangalam Village, where he is working as a 'Village Administrative Officer' and residing in the Pasuvanthanai Village. The Charge No.4 is with reference to two income certificates issued by the petitioner with different amounts in favour of one Thiru.Muniandi of Kappikulam Village. After conducting an enquiry into the matter, no findings were recorded by the Enquiry Officer on charges 1 and 2 on the ground that a criminal case is pending against the petitioner before the court of law. However, the charges 3 and 4 are concerned, the said charges are held as proved. The Respondent No.4, having considered the charges 3 and 4 levelled against the petitioner, held the same as proved and imposed the punishment of "*treating the period of suspension from 05.09.1992 till 24.05.1998 as the punishment having effect on the pensionary benefits payable to the petitioner*". It is aggrieved by the said order dated 24.05.1998, the petitioner filed an appeal before the Respondent No.3 and the Respondent No.3 by an order dated 03.08.2009, confirmed the order passed by the Respondent No.4. It is aggrieved by the said order dated 24.05.1998, as confirmed by the order dated 03.08.2009, the petitioner approached this court by filing the present writ petition.

2. In the meanwhile, the petitioner, though was convicted by the learned Magistrate in C.C.No.1001 of 1993, the said conviction was reversed on appeal in C.A.No.59 of 1994 on the file of the court of Chief Judicial Magistrate by a judgement dated 20.11.1997. In view of the said acquittal of the petitioner in the above said crime, charges 1 and 2 does stand and the said charges were also not taken into consideration by the Respondent No.4/

Disciplinary Authority.

3. Though, in all, four charges are framed against the petitioner, the charges 1 and 2 are not sustainable in view of the acquittal of the petitioner in the criminal proceedings. It is only basing upon the charges 3 and 4, the impugned punishment was imposed. In the impugned proceedings dated 24.05.1998, though the period of suspension with effect from 05.09.1992 till 24.05.1998 is treated as punishment, the said period of suspension is regularized by the Respondent No.4. Once the period of suspension was regularized, the question of treating the said period of suspension as 'punishment' does not arise.

4. From the fact that the said period of suspension was regularized by the Respondent No.4 and the said period is treated as 'suspension', that would mean that the petitioner is held not entitled for any monetary benefits for the said period of suspension other than the subsistence allowance that was already paid to the petitioner. If that be the case, once the suspension period was regularized as 'service', the petitioner would automatically be entitled for grant of increments that are due to the petitioner during the period of suspension. But, for the reasons best known, the Respondent No.4, while passing the impugned order dated 24.05.1998, has stated that the said

punishment would affect the pension of the petitioner. It is by virtue of the said condition, the respondents, while fixing the terminal benefits of the petitioner, appears to have not taken into consideration the period of suspension as 'service'. By virtue of the fact that the said period of suspension was regularized, the observation of the Disciplinary Authority that the said punishment has the effect on pension of the petitioner has no basis to stand. Once the period of suspension period itself is treated as punishment, that would at the most be treated as restricting the entitlement of the petitioner for the amounts that were already paid to the petitioner during the period of suspension and not for any other amounts. In the circumstances, the very impugned order dated 24.05.1998 is self-contradictory.

5. Be that as it may, the charges 3 and 4 that are levelled against the petitioner are not of serious nature and they are rather trivial. If that be the case, the question of dis-entitling the petitioner the benefit of service of about six years i.e., for the period during which he was placed under suspension would be harsh and grossly disproportionate to the charges levelled against the petitioner. When the petitioner filed an appeal before the Respondent No.3, the Respondent No.3, without considering the matter in a proper perspective, in a mechanical manner, confirmed the order passed by the

Respondent No.4/ Disciplinary Authority.

6. Added to this, the petitioner has already retired from service and was aged about 65 years, when the present writ petition was filed in the year 2013. Hence, this court is of the considered view that it is a fit case, where the issue should be put to rest once and for all. Having come to this conclusion, this court has interacted with the counsel appeared on both the sides and accordingly, on such consultation, this court is of the considered view that the punishment imposed on the petitioner is wholly unsustainable and the same is liable to be set aside, while substituting the same with a lesser punishment.

7. In the light of the above, the impugned punishment cannot be sustained and the proceedings bearing ந.க.அ1/173/92 dated 24.05.1998 is accordingly quashed by duly substituting the said punishment with the punishment of '*stoppage of one increment for a period of two years with cumulative effect on the pension payable to the petitioner*'. Accordingly, the respondents are directed to pass appropriate consequential orders in connection with the terminal benefits that are due and payable to the petitioner and revise the pension accordingly and pay all the consequential

amounts payable to the petitioner. The exercise, as directed above, shall be completed as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order.

8. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

19.11.2024

skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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