



WEB COPY



W.P.No.35578 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.35578 of 2015

K.Annamalai

....Petitioner

Vs

The District Adi-Dravidar and Tribal
Welfare Officer, Erode, Erode District.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the record relating to the impugned order of the respondent in Na.Ka.No.28421/2008/Tha-1 dated 19.07.2014 and quash the same in so far as it directs treating the period of non-employment as eligible leave and direct the respondent to treat the said period as a period spent on duty and grant me all consequential benefits.

For Petitioner : Mr.V.Jothi Shankar for
M/s.P.Rajendran
For Respondents : Mr.Stalin Abhimanyu,
Additional Government Pleader

ORDER



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2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and perused the materials available on record.

3. It is the case of the petitioner that he worked as a cook in the Government Adi-Dravidar and Tribal Welfare Boys Hostel, Sathiamangalam. While he was in service, disciplinary proceedings was initiated against him by the respondent under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. It framed ten charges. In view of the disciplinary proceedings, the petitioner was placed under suspension on 05.09.2008.

4. An enquiry officer was appointed and pursuant to the enquiry



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conducted, enquiry report was filed holding that all the ten charges are not proved. The respondent/disciplinary authority had concurred with the findings of the enquiry officer and by the proceedings dated 19.07.2014, exonerated the petitioner from the charges and dropped all further proceedings. However, by the impugned order, the respondent had directed that the period of suspension shall be treated as eligible leave. Assaulting that portion of the impugned order, petitioner had preferred the above Writ Petition.

5.The learned counsel appearing for petitioner contended that when once in the departmental proceedings, the enquiry officer had held that the charges are not proved and the disciplinary authority had also concurred with the findings of the enquiry officer and exonerated the petitioner from the charges, then the impugned portion of the order directing to treat the period of suspension from 05.09.2008 to 11.01.2009 as leave period is unsustainable, in view of the provisions of the fundamental rules and sought for interference of this Court.

6.The learned Additional Government Pleader for the respondent



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contended that since in the impugned order the petitioner was given liberty to file appeal, if so aggrieved, he ought to have file appeal and the present Writ Petition filed without exhausting the alternative remedy is not sustainable, and sought for dismissal of the Writ Petition.

7. Admittedly the disciplinary proceedings was initiated against the petitioner by issuing a charge memo framing ten charges. Not satisfied with the reply submitted by the petitioner, an enquiry officer was appointed and in the enquiry after concluding the enquiry, report was submitted holding that all the ten charges are not proved. The disciplinary authority had infact concurred with the findings of the enquiry officer and had passed the impugned order dated 19.07.2014, thereby exonerating the petitioner from the departmental proceedings and dropped charges.

8. Pending the departmental proceedings, the petitioner attained superannuation on 31.01.2015. When once the disciplinary authority had concurred with the findings of the enquiry officer which held that all the charges framed as against the petitioner has not been proved and decided to exonerate the petitioner from charges, then as a corollary, the period of suspension will have to be treated as a period in duty and the petitioner will



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be entitled to for all the benefits which was denied during this period.

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9.In this regard, it is fairly acceded by both the counsels that as per Fundamental Rule 54 (2), when a Government servant who was suspended is fully exonerated of the charges, the period of suspension shall be treated as duty and he shall be entitled to pay allowances for the entire period of suspension.

10.In the instant case, the petitioner was suspended from service on 05.09.2008 and continued to remain under suspension and he was reinstated in service on 11.01.2009 prior to his retirement and thereafter the disciplinary proceedings ended in favour of the petitioner. While so, when the respondent had issued orders exonerating the petitioner from the charges, the portion of the order in so far as treating the period of suspension as leave period cannot be sustained. As such the petitioner is entitled for all the benefits that he has lost during the period of suspension after taking into account, the substitute allowance, if any, that has been paid to him.

11.In so far as the submissions that there is an alternative remedy and



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the petitioner ought to have filed an appeal, this Court is not inclined to accept the same at this length of time and the Writ Petition has been pending for the past ten years and further when the impugned order is in violation of the provision as extracted above.

12.In view of the same, the impugned order of the respondent is in so far as treating the period of suspension as leave period is quashed and the respondent is directed to treat the leave period as one that on duty with all pay and allowances during such period.

13.With the above directions, the Writ Petition stands allowed. No Costs.

24.10.2024

Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
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To
1.The District Adi-Dravidar and Tribal
Welfare Officer, Erode, Erode District.

2.The Public Prosecutor
High Court of Madras.



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G.ARUL MURUGAN, J.,

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