



Writ Appeal No.2213 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
20.06.2024

PRONOUNCED ON
09.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.2213 of 2022

C.Jagadeesan

Vs

... Appellant

1.Additional Director General of Police,
Economic Offences Wing,
Anna Nagar, Chennai – 600 040.

2.Superintendent of Police,
Economic Offences Wing,
Anna Nagar, Chennai – 600 040.

... Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 15.07.2022 made in W.P.No.31934 of 2014 and pass such further order.

For Appellant : Mr.V.Stanly Raja singh
for M/s.Bala and Daisy

For RR1 & 2 : Mr.M.Bindran
Additional Government Pleader



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JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This instant Intra- court Appeal had been preferred as being aggrieved against the portion of the order where the learned Single Judge has ordered reinstatement without backwages.

2. Heard Mr.V.Stanly Raja Singh, learned counsel for M/s.Bala and Daisy learned counsel for the appellant and Mr.M.Bindran, learned Additional Government Pleader appearing on behalf of the respondents.

3. Mr.V.Stanly Raja singh, learned counsel appearing on behalf of the appellant would submit that the appellant had been ill and therefore, he was not in a position to perform his duty. Subsequently, his leave has also been regularised as medical leave, pursuant to the recommendation of the Medical Board. However, he had been issued with a charge memo for unauthorised absence and he had been terminated from service. An appeal filed by the appellant was also



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dismissed against which he had preferred a Writ Petition. The learned

Single Judge considering the facts and circumstances of the case had set aside the order of punishment. But, however, the learned Single Judge had held that he is not entitled to the backwages. Therefore, he had preferred this present Appeal only against the order in so far as it relates to disallowing of the backwages is concerned. The learned counsel for the appellant would vehemently contend that when his medical leave has been regularised and that the order of punishment itself has been rightly held to be wrongly imposed upon the appellant, the appellant would be entitled for all backwages. Therefore, he would seek interference of this Court in so far as refusal to grant backwages. In support of his contention, he would rely upon the judgment of the learned Single Judge of this Court in ***W.P.No.12686 of 2013, dated 26.11.2021.***

4. Countering his arguments, Mr.M.Bindran, learned Additional Government Pleader would contend that the petitioner had remained unauthorisedly absent for 97 days and hence, disciplinary proceedings



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have been initiated. Therefore, he would submit that the learned Single Judge was right in refusing the backwages to the appellant and therefore, there is no infirmity in the order passed by the learned Single Judge.

5. Heard the learned counsel appearing on either side and perused the materials available on record before this Court.

6. The *lis* that is to be resolved in the present Appeal is as to whether the appellant is entitled for grant of backwages. In this context it would be useful to refer to the Fundamental Rules in this aspect. Rule 54-A (3) envisages that if a dismissal, removal or compulsory retirement of a Government servant is set aside by the Court on the merits of the case, the intervening period from the date of dismissal including the period of suspension preceeding the dismissal till the date of reinstatement should be treated as duty for all purposes and he would be entitled to full pay and allowance for the period which he would have been otherwise entitled to. For better appreciation, the



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relevant Rule is extracted hereunder:-

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“54 A(3). If the dismissal, removal or compulsory retirement of a Government Servant is set aside by the court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowance for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be.”

7. The judgment relied upon by the learned counsel for the appellant had been made by one of us (The Hon'ble Mr.Justice D.Krishnakumar). A reading of the aforesaid judgment would also indicate that the same has been made by taking into consideration FR 54-A (3) which would also squarely apply to the facts of the case.



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8. In such an event, we are inclined to direct the respondent to consider the case of the petitioner and pass appropriate orders on the question of payment of backwages in accordance with the Fundamental Rules as applicable to the facts of the case.

9. With the aforesaid directions, this Writ Appeal is allowed and the order of the learned Single Judge in so far as it relates to denying the backwages alone is set aside. However, there shall be no order as to costs.

(D.K.K.,J.) (K.B., J.)
09.07.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba

To

1. Additional Director General of Police,
Economic Offences Wing,

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Anna Nagar, Chennai – 600 040.

2. Superintendent of Police,
Economic Offences Wing,
Anna Nagar, Chennai – 600 040.



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D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

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A Pre-delivery Judgment made in
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