



W.P.No.25938 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.25938 of 2021

R.Suresh

...

Petitioner

Vs.

The Principal Secretary to Government,
Home Department,
Fort St.George,
Chennai 600 009.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent herein to consider and pass orders on merits and in accordance with law, on the petitioner's representation dated 24/01/2019 regarding cancellation of the punishment of postponement of increment for a period of 3 years with cumulative effect dated 22/06/2018, within a time frame.

For Petitioner : Mr.G.Bala

For Respondents : Mr.S.Arumugam
Government Advocate



ORDER

The petitioner, who was imposed with the punishment of postponement of an increment for three years with cumulative effect, has given a representation to the respondent to cancel the punishment and the same was not considered. Hence this petition has been filed for a Writ of Mandamus seeking directions against the respondents.

2. Heard, Mr.G.Bala, learned counsel for the petitioner and Mr.S.Arumugam, learned Government Advocate for the respondent and perused the materials available on record.

3. The petitioner was originally imposed with the punishment of removal of service for the charges of unauthorised absence. The petitioner has submitted that his absence was not willful but only on account of a medical emergency.

4. However, the petitioner did not participate in the enquiry proceedings, despite repeated summons were sent to him. The summons sent to the petitioner could not be served, because he was not available. Usually, the summons from the department is served only to the address furnished by the employee to the department. If the employee shifts his residence or changes the address, it is obligatory on his part to inform the department about the same. The petitioner



who received the charge would be aware that the disciplinary proceedings would be initiated against him. However, he was not serious enough to make himself available to receive the papers served from the department or furnish his correct address to the department.

5. In fact, at the conclusion of the departmental proceedings, he was imposed with the capital punishment of removal from service. However, on appeal, the appellate authority has modified the punishment of removal to postponement of an increment of three years with cumulative effect. The appellate authority has rightly considered that the punishment of removal is disproportionate to the charges framed against the petitioner and has reduced the punishment to a stoppage or postponement of three increments for three years with cumulative effect.

6. Even without the petitioner's participation in the enquiry proceedings, his explanation was duly considered by the authorities concerned and the punishment has been reduced reasonably. The petitioner, who had been appointed on compassionate grounds because of the death of his father, who died in harness, should have been responsible enough to save his employment. Even if there was no medical emergency or personal inconvenience, he ought to have applied for



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leave. Without permission from the department, he had been absent.

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7. The petitioner has been given a reasonable opportunity. But, it is fault on the part of the petitioner for not utilizing the same. Further, the punishment was modified by the appellate authority suiting to the charges proved against him; hence, I find no reason to grant any relief as prayed by the petitioner.

In the result, this Writ Petition stands **dismissed**. No costs.

12.02.2024

Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



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To

The Principal Secretary to Government,
Home Department,
Fort St.George,
Chennai 600 009.



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R.N.MANJULA,

jrs

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