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W.P.No.26104 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.26104 of 2021

K.Arumugam

... Petitioner

Vs.

- 1.The Director General,
Highways Department,
No.76, Sarthar Vallabai Patel Road,
Guindy, Chennai 25.
- 2.The Chief Engineer,
Highways Department,
Construction & Maintenance,
No.76, Sarthar Vallabai Patel Road,
Guindy, Chennai 25.
- 3.The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Mohanur Road, Namakkal 637 001.
- 4.The Assistant Divisional Engineer,
Highways Department,
Senthamangalam, Namakkal District.
- 5.The Assistant Engineer,
Highways Department,
Senthamangalam,
Namakkal District.

... Respondents



W.P.No.26104 of 2021

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the third respondent to consider the petitioner's representation dated 16.08.2021 for seeking suitable rectifications in fixation of petitioner's salary properly including annual increments and other eligible rights under service condition within a stipulated time fixed by this Court.

For Petitioner : Mr.P.Veeraraghavan

For Respondents : Mr.S.Arumugam, GA

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the third respondent to consider petitioner's representation dated 16.08.2021 for seeking suitable rectifications fixation of petitioner's salary properly including annual increments and other eligible rights under service condition within a stipulated time fixed by this Court.

2. Heard Mr.P.Veeraraghavan, learned counsel for the petitioner and Mr.S.Arumugam, learned Government Advocate for the respondents.



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3. The petitioner was dismissed from service for some alleged misconduct and he was subsequently reinstated by virtue of the order dated 04.11.2019 of the third respondent. Since the petitioner got reinstated he has given a representation to regularise the period under which he was kept out of employment from 03.03.2006 to 05.11.2019.

4. The learned Government Advocate for the respondents submitted that the petitioner was involved in a criminal case and he was convicted for eight years imprisonment by virtue of the judgment passed in S.C.No.30 of 2007 dated 04.02.2008 by the learned Principal Sessions Judge, Namakkal and he was dismissed from service on 25.07.2008 consequent to his conviction.

5. Despite it is stated in the counter that the master-servant relationship had ceased to exist after 25.07.2008, the petitioner got reinstated in the year 2019. Further the period between 03.03.2006 to 05.11.2019, in which the petitioner was kept under suspension should be treated as eligible leave by virtue of the letter of the third respondent dated 05.12.2020. The petitioner has not challenged the order which was



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issued to consider the impugned period as a period of eligible leave.

Without challenging the same, the petitioner has sent representation stating that his period should be regularised and that he should be paid with salary by re-fixing the same. Even in the opinion of the respondents, the petitioner is not entitled to get the suspension period treated as continuity of service with backwages and other attendant benefits. Since the petitioner has not established any legal right, this Writ Petition is liable to be dismissed.

6. In the result, this Writ Petition is dismissed. However, it is upto the third respondent to regularise the above break period and pass appropriate orders in accordance with law. No costs.

14.02.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
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