



WEB COPY

W.P.No.28531 of 2021
and W.M.P.No.30146 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.28531 of 2021
and W.M.P.No.30146 of 2021

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Petitioner

versus

1.Government of Tamil Nadu,
Represented by its Principal Secretary,
Higher Education
Fort St. George,
Chennai - 600 009.

2.The Director of Collegiate Education,
College Road,
Chennai - 600 006.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 2nd respondent vide Na.Ka.No.55296/c4/2017, dated 24.01.2018 and confirmed by the 1st respondent vide letter no.2653/F1/2021-4 dated 20.10.2021, and quash the same and direct the respondents to count the service from 12.02.1993 to 27.04.2005 as qualifying service along with regular service for pension by considering the appeal dated 13.04.2018.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.K.Surendran
Additional Government Pleader



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ORDER

Heard Mr.P.Ganesan, learned counsel for the petitioner and Mr.K.Surendran, learned Additional Government Pleader for the respondents and perused the materials available on record.

2. The petitioner has filed this Writ Petition, challenging the order of the 2nd respondent dated 24.01.2018 which was confirmed by the 1st respondent dated 20.10.2021 and seeking direction against the respondents to count the petitioner's service from 12.02.1993 to 27.04.2005 as qualifying service.

3. Mr.P.Ganesan, learned counsel for the petitioner submitted that the petitioner was removed from service in view of certain alleged misconduct. The limited claim of the petitioner is that he has been actually given with the removal order on 28.04.2005 and his services from 12.02.1993 to 27.04.2005 should be regularised. However, in the letter of the 2nd respondent dated 24.01.2018, it has been stated that the petitioner was removed from service on 12.02.1993 and hence, he cannot claim that



his services should be regularised from 12.02.1993 to 27.04.2005.

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4. The charge against the petitioner is that he was on authorised absence from 12.02.1993. Just because the petitioner was given with the subsistence allowance between the period during which the disciplinary proceedings were pending, it cannot be presumed that the petitioner's absence was condoned and he continued to be in actual service. As rightly stated in the impugned order the period from 12.02.1993 to 27.04.2005 which is a non-duty period, cannot be considered along with regular service for pensionary benefits. In fact, the respondent has chosen to consider the period of leave on loss of pay.

5. The contention of the petitioner is that he has been removed from service and subsequently the order has been modified as '*compulsory retirement*' and hence, it is the discretion of the 2nd respondent to regularize the period of his absence either by giving credit to the eligible leave in the account of the employee or by treating it as loss of pay. The petitioner cannot compel the authorities that the regularisation of the absence should



be condoned in a particular manner. Hence, I do not find any merits in the submission made by the learned counsel for the petitioner.

Hence, this Writ Petition is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

06.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Higher Education
Fort St. George,
Chennai - 600 009.
- 2.The Director of Collegiate Education,
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R.N.MANJULA, J.

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