



W.P(MD)No.8650 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.8650 of 2024

S.Kamaraj

.. Petitioner

Vs.

1.The Secretary to Government,
Social Welfare and Nutritions Programme Department,
St.George Fort,
Chennai.

2.The Commissioner,
Social Defense Department,
300, Purasaivakkam High Road,
Chennai-10.

3.The Secretary,
Social Defence Department,
Chennai.

4.The Director,
Social Defence Department,
Chennai-10.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd and 4th respondents to release all the benefits for the period of 04.04.2009 to 17.06.2012 within stipulated time fixed by this Court based on the petitioner's representation dated 18.10.2023 and 12.12.2023.

For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

The petitioner filed this writ petition seeking for issuance of a Writ of Mandamus, to direct the 3rd and 4th respondents to release all the benefits for the period of 04.04.2009 to 17.06.2012 within stipulated time fixed by this Court based on the petitioner's representation dated 18.10.2023 and 12.12.2023.

2. Heard Mr.S.A.Ajmalkhan, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.



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3. By consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

4. Mr.S.A.Ajmalkhan, learned counsel appearing for the petitioner submitted that the petitioner was working as a gardener in the year 1998. He rendered his service with clean hands. At that time, the second respondent passed an order through his proceedings No.23279/AMo/2003 dated 26.03.2009 for compulsory retirement under Section 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules against which the petitioner filed an appeal before the first respondent and no action was taken on his appeal. Hence, the petitioner filed a writ petition in W.P(MD)No.3130 of 2010 and this Court passed an order in favour of the petitioner on 12.03.2010. In compliance of that order, the first respondent passed an order vide his proceedings in GO(T)No.171 dated 23.11.2010 by setting aside the impugned proceedings passed by the second respondent dated 26.03.2009 and ordered that from 04.04.2009 onwards temporary suspension will prevail and remanded the matter to the Director, Social Defence Department to conduct a proper enquiry and pass appropriate order. Subsequently, the Director conducted enquiry and suspended the petitioner from



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04.04.2009 and thereafter, he was reinstated to service with effect from 18.06.2012. The petitioner has now claimed that the period under suspension should be treated as duty and for which he is entitled to the monetary benefits.

5. However in the order dated 22.01.2021, the suspension period of the petitioner between 04.04.2009 and 17.06.2012, ie., totally 1171 days have been treated as leave on loss of pay. In fact, the petitioner has sent a representation to consider the said period as duty instead of leave on loss pay. The representation so sent by the petitioner is pending with the 3rd and 4th respondents and they are yet to pass orders. Without any order as to the entitlement of the petitioner to get the monetary benefits between the period 04.04.2009 and 17.06.2012, the petitioner cannot seek a direction to disburse the monetary benefit for the said period.

6. In view of the same, the third and fourth respondents are directed to consider the petitioner's representation dated 18.10.2023 and pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.



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7. With the above direction, this writ petition is **disposed of**. No Costs.

05.04.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJL

To

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R.N.MANJULA, J.

PJL

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