



W.P.(MD).No.12544 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12544 of 2024

S.Mariappan

... Petitioner

Vs

1. The District Collector,
Virudhunagar District.
2. The Revenue Divisional Officer,
Sattur Division, Virudhunagar District.
3. The Revenue Divisional Officer,
Aruppukottai Division, Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to consider the representation of the petitioner, dated 03.05.2024 and thereby to regularise the period of suspension from 05.08.2021 to 28.08.2023 as duty period and pay the unpaid 50 % of salary and further to pay two months full salary for the period 29.08.2023 to 31.10.2023.

For Petitioner : Mr. T.S.Mohamed Mohideen

For Respondents : Mr.J.Ashok
Additional Government Pleader



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ORDER

Heard Mr.T.S.Mohamed Mohideen, learned counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader, for the respondents.

2.The petitioner has filed this Writ Petition for a direction to the respondents to consider the representation of the petitioner, dated 03.05.2024 thereby, to regularise the period of suspension from 05.08.2021 to 28.08.2023 as duty period and pay the unpaid 50 % of salary and to pay two months full salary for the period from 29.08.2023 to 31.10.2023.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. While the petitioner was working as a Village Administrative Officer at Alampatti Village, Virudhunagar Taluk, he was suspended from service on 05.08.2021. Challenging the order of suspension, the petitioner has filed W.P(MD) No.14326 of 2021 and the same was dismissed on 25.03.2022.



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Against which, he has preferred an appeal in W.A.(MD) No.673 of 2021 and the same was also dismissed on 08.07.2022. On 28.08.2023 based on the findings of the disciplinary proceedings, the 2nd respondent has passed an order of punishment of stoppage of increment with cumulative effect for a period of five years and has also revoked the order of suspension. However, after revoking suspension, the petitioner was not issued with the posting order. Since there is no response, the petitioner has filed W.P(MD) No.28050 of 2023 to direct the respondent to allow him to serve as Village Administrative Officer. In view of the directions issued in the said order, the petitioner was allowed to join duty on 01.12.2023. During the suspension period, the subsistence allowance was paid to the petitioner. However, after revocation of suspension, he was not paid with salary. Hence, the petitioner made a representation before the respondents on 03.05.2024 to regularise the period of suspension from 05.08.2021 to 28.08.2023 as duty period and pay the unpaid 50 % salary and also to pay two months full salary for the period from 29.08.2023 to 31.10.2023. However, the same was not considered. Hence, this writ petition came to be filed.



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5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty. The failure on the part of the authority had prompted the petitioner to file this petition for seeking relief through issuance of Writ of Mandamus. As the petitioner has made out a case for invoking the extraordinary powers of this Court under Article 226 of the Constitution of India, the respondents are required to be given with a direction to consider the representation of the petitioner within a specified time frame.

6. In the light of the above observations, there shall be a direction to the second respondent herein to consider the petitioner's application, dated 03.05.2024, on its own merits and pass appropriate orders in accordance with law, after making due enquiry, within a period of three weeks from the date of receipt of a copy of this order. It is made



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clear that this Court has not gone into the merits of the case or the claim of the petitioner and it is open to the respondents to consider the same on its own merits.

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

13.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To

1. The District Collector,
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R.N.MANJULA, J.

PNM

ORDER IN
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