



W.P.(MD).No.20266 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20266 of 2023

and

W.M.P.(MD).Nos.16721, 16722 & 26793 of 2023

K.Muthuchamy

... Petitioner

vs

The Chief Educational Officer,
O/o.The Chief Educational Office,
Ramanthapuram District,
Ramanathapuram.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records relating to the impugned order passed by the respondent vide his proceedings O.Mu.No. 7964/A5/2022 dated Nil.09.2022 (Signed and issued on 02.11.2022) and quash the same as illegal and consequentially to direct the Respondent to regularize the period of suspension from 18.12.2012 to 16.07.2019 as spent on duty in accordance with Fundamental Rule 54(9).

For Petitioner

: Mr.H.Mohammed Imran
for

M/s.Ajmal Associates

For Respondents

: Mr.N.Satheesh Kumar
Additional Government Pleader



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ORDER

The instant writ petition has been filed by a B.T. Assistant (Science), challenging the order passed by the respondent herein, wherein, the request of the petitioner to regularize his period of suspension as duty period has been rejected.

2. The petitioner herein was implicated in a criminal case in Cr.No.12 of 2012 on the file of All Women Police Station, Sattur for the alleged offences under Sections 494 & 406 of IPC on 07.12.2012. The petitioner was arrested and remanded to judicial custody for more than 48 hours. Invoking Rule 17(e)(ii) of TamilNadu Civil Services Discipline and Appeal Rules, 1955, the petitioner was placed under suspension by the orders of the respondent on 18.12.2012.

3. The petitioner was issued with a charge memo on 02.12.2013, and the departmental enquiry was proceeded and an enquiry report was also submitted. The petitioner was issued with a second show cause notice, calling upon his further explanation for the enquiry report. The petitioner has



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submitted his explanation on 27.01.2016. The petitioner herein was acquitted by the Criminal Court on 25.01.2019. Based upon the acquittal, the petitioner was reinstated on 16.07.2019. Final orders were passed in the departmental proceedings on 22.04.2021, imposing punishment of stoppage of increment for a period of two years with cumulative effect. The appeal filed by the writ petitioner challenging the said punishment order was not successful.

4. The petitioner herein has given a representation to the respondent herein, seeking to regularize the period of suspension between 18.12.2012 to 15.07.2019. The said request has been accepted by the respondent herein and the suspension period has been regularized as eligible leave (except medical leave). It is the grievance of the writ petitioner that the said period should have been treated as a duty period instead of treating it as eligible leave.

5. The learned Counsel appearing for the writ petitioner had relied upon FR-54-B(9)(a) and (b) and contended that where a Government Servant is placed under suspension, pending criminal proceedings and later he is acquitted from the said criminal proceedings, he should be reinstated in service and the period of suspension should be treated as a duty period.



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6. Per contra, the learned Additional Government Pleader appearing for the respondent herein had contended that the petitioner was issued with a charge memo on 02.12.2013, and punishment was imposed upon him on 22.04.2021. Therefore, the period of suspension was only due to the pendency of the charge memo as against the writ petitioner and his suspension is not traceable only to the criminal charges pending as against him. He further contended that when the departmental proceedings have got culminated in imposition of punishment, it only reflects that the the order of suspension is justifiable and therefore, the period of suspension cannot be treated as a duty period. But, at the discretion of the official, it can only be converted as a eligible leave. The learned Additional Government Pleader relying upon Para.12 of the counter affidavit had contended that the period of suspension has to be regularized only as per Rule.54B(7) of Fundamental Rule and exercising the discretion, the authorities have treated as special leave period. Hence, he prayed for dismissal of writ petition.

7. I have carefully considered the submissions made on either side and perused the materials available on record.



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8. If the period of suspension is traceable only to a criminal case and ultimately if the government servant is acquitted from the criminal case, the suspension period has to be treated as a duty period with all attendant benefits as contemplated under Rule.54B (9)(a) and (b) of the Fundamental Rules. On the other hand, if the suspension is traceable to the initiation of departmental proceedings or in-contemplation of departmental proceedings for grave charges, and if the Government Servant is exonerated, then the suspension period should be treated as a duty period. On the other hand, in the departmental proceedings penalty is imposed upon the Government Servant then the suspension period should be treated as a justifiable one and it at the most it can be treated as an eligible leave not as a duty period. This is the settled position of law. It is to be considered, whether, the suspension of the writ petitioner is traceable to a criminal case or the departmental proceedings to find out, whether, the suspension period could be regularized as a duty period or eligible leave.

9. In the present case, the order of suspension dated 18.12.2012 reveals that it is only traceable to a deemed suspension provision namely Rule 17(e) (ii) of Tamilnadu Civil Services Discipline and Appeal Rules, 1955. There is



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no reference whatsoever about the charge memo or contemplation of Departmental proceedings. Therefore, it is clear that the initial suspension order is only traceable to a criminal case. The petitioner was acquitted from the criminal case only on 25.01.2019. Though the departmental proceedings got culminated on 24.01.2021. The writ petitioner was reinstated in service as early as on 16.07.2019. Therefore, it is clear that the department has not waited for the culmination of the disciplinary proceedings, but the suspension order was revoked based upon the acquittal order passed by the Criminal court. Therefore, it is clear that the order of suspension as well as the order of revocation of suspension are only traceable to the criminal case and not to the departmental proceedings.

10. In view of the fact that the suspension and revocation of suspension are traceable only to the criminal proceedings, Rule 54B (9) (a) and (b) of Fundamental Rules are squarely applicable to the facts of the present case and the writ petitioner would be entitle to treat the period of suspension as a duty period with all attendant benefits.



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11. In view of the above said deliberations, this writ petition stands allowed and the respondents are directed to treat the period of suspension between 18.12.2012 to 15.07.2019 as a duty period and disburse all attendant benefits. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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To

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O/o.The Chief Educational Office,
Ramanthapuram District,
Ramanathapuram.

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