



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

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CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.3646 of 2019

A. Loganathan,
S/o Arunachalam,
20, Kaniravathar kulam,
Periyasemur Post,
Erode 638004.

...

Petitioner

Vs.

1. The District Collector,
Tirupur District,
Tirupur.

2. The Sub Collector,
Tiruppur,
Tirupur District.

3. The Revenue Divisional officer,
Erode,
Erode District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceeding in Ref: 2078/2011/A3 dated 28.03.2017 issued by the 2nd Respondent and quash the same and consequently directing the Respondents to pay the arrears of increment for the period from June, 2001 to January, 2010 and the subsistence allowance from 01.06.2011 to 18.03.2016 with interest at the rate of 12% per



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For Petitioner : Mr.G.Pugazhenhi

For Respondents : Mr.A.M.Ayyadurai, GA

ORDER

The writ petition has been filed to call for the records pertaining to the proceedings in reference No.2078/11/A3 dated 28.03.2017 of the 2nd respondent and quash the same and direct the respondents to pay the arrears of increment for a period from June **2000** to January 2010 and the subsistence allowance from 1.6.2011 to 18.3.2016 with interest @12% and pass orders.

2.Heard, Mr.G.Pugazhenhi, learned counsel for the petitioner, Mr.A.M.Ayyadurai, learned Government Advocate for the respondents and perused the materials available on record.

3. The petitioner, who was working as Village Administrative Officer in the Revenue Department of the respondent, was placed under suspension on 5.12.2000 in view of disciplinary action contemplated on grave charges. The petitioner filed an application before the Tamil Nadu Administrative Tribunal, Chennai, in [OA.No.2089](#) of 2001 and obtained an interim stay order. In view of the same, his suspension got revoked, and the petitioner was subsequently

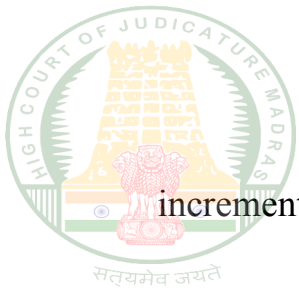


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reinstated into service on 18.06.2001. On 06.02.2004, a charge sheet was issued under Section 17(b) of the Disciplinary Rules, and an inquiry was conducted subsequently, which culminated in an order of punishment of dismissal from service. However, the petitioner attained the age of superannuation on 31.01.2010. The petitioner was once again placed under suspension just two days prior to his superannuation, i.e., on 29.01.2010.

4. On the very same allegations, a criminal case has also been registered in which the petitioner was given with a punishment of rigorous imprisonment for 6 months in Special C.C.17/2002 dated 11.10.2010. Now the grievance of the petitioner is that although he was reinstated on 18.06.2001 and continued to be in service till his second suspension order dated 29.01.2010, he was not granted with the annual increments due to him. His further grievance is that he was not paid the subsistence allowance also for the period between June 2011 to 18.03.2016.

5. The learned counsel for the petitioner submitted that the rule does not prohibit granting of annual increment for persons who continued to be in service in view of a pending criminal case or disciplinary proceeding. Unless stoppage of



increment has been imposed as a punishment, the same shall not be withheld.

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6. The learned government advocate for the respondents submitted that the petitioner is not entitled to the increment because of a pending criminal case, and also the pending disciplinary action involving certain grave charges.

7. The fact remains that the petitioner was first suspended on 5.12.2000, and thereafter, by virtue of an order passed by the Tamil Nadu Administrative Tribunal, Chennai, he was reinstated into service on 18.6.2013. From then onwards the petitioner continued to be in service. It is not the claim of the petitioner that the petitioner has been imposed with any punishment for any other proved charges in order to stop his annual increment.

8. The fact that the petitioner was in service from 18.6.2001 to 29.1.2010 is also not disputed. But the petitioner was paid with a salary for those periods during which he was in service and hence, the petitioner is entitled to get the annual increment also. There is no rule prohibiting the grant of annual increment to an employee just because any criminal case or disciplinary proceedings pending against them. When there is no order of punishment passed against the petitioner to stop his annual increment, there is no reason to withhold the annual increment due to the petitioner. The petitioner is said to have given repeated



representations, but they were not considered positively.

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9. Even when the criminal case was pending against the petitioner, the petitioner continued to be in service, and ultimately he was dismissed from service only on 18.03.2016. Since the annual increment payable to an employee is part of his service benefit, it cannot be denied without basing on any rules or on a punishment. It is obligatory on the part of the respondents to sanction the annual increments and disburse the arrears to the petitioner.

10. So far as the claim for subsistence allowance is concerned, it is submitted by the learned government advocate for the respondents that the petitioner is not entitled to get any subsistence allowance unless he furnishes any certificate to show that he is not employed elsewhere and that he continues to reside in the place where he was ordered to stay. At no point in time any such order has been passed against the petitioner stating that the petitioner had moved out of the place or that he was employed elsewhere, and that he is not entitled to get the subsistence allowance. Until the petitioner is dismissed from service, the petitioner is presumed to be under suspension.

11. As the petitioner was placed under suspension from 29.01.2010 and the order of punishment of dismissal from service has been passed on 18.03.2016, the



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petitioner is entitled to get the subsistence allowance during this period provided he gives an undertaking that he was residing in the same place where he was ordered to stay and that he is not employed elsewhere.

12. So far as the period during which the petitioner was undergoing imprisonment to serve the punishment imposed on him in the criminal proceedings, the respondents shall not have any obligation to pay the subsistence allowance. But for the rest of the period, the entitlement of the petitioner could get the subsistence allowance that cannot be withheld or taken away without any reason.

13. In view of the above stated reasons, this writ petition is **allowed**. The impugned order passed by the second respondent in in Ref: 2078/2011/A3 dated 28.03.2017, is set aside insofar as it denies the annual increment of the petitioner, which fell due between the period from 18.06.2001 to 29.01.2010, and the subsistence allowance between the period from June 2011 to 18.03.2016 [excluding the period of imprisonment undergone by the petitioner], and pass appropriate orders to sanction and disburse the same within a period of six weeks from the date of issuance of the receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition, if any, is also closed.



25.04.2025

Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



R.N.MANJULA, J.
jrs

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To

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