



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 4543 of 2025

G.N.Nataraj

... Petitioner

..Vs..

1. The Secretary to Government
Public Works Department
Secretariat
Chennai – 600 009.
2. The Engineer In Chief and Chief Engineer (General)
Public Works Department
Chepauk
Chennai – 600 005.
3. The Chief Engineer
Public Works Department
Coimbatore Region
Coimbatore – 641 001.
4. The Superintendent Engineer
Public Works Department
Buildings C & M Circle
Coimbatore – 641 001.
5. The Executive Engineer
Public Works Department
Buildings C & M Division



Coimbatore – 641 001.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondent authorities to pay all the pensionary benefits such as Encashment of earned leave, unearned leave, surrender leave, salary for 15 years and arrears of pay and allowances from 5.12.1988 to 30.06.2004 to the petitioner in the light of G.O.(D).N0.36 dated 20.02.2020 passed by the Public Works Department by disposing of petitioner's representation dated 24.09.2024 within the time frame stipulated by this Hon'ble Court.

For Petitioner :: Ms. M.Sharusrimathi

For Respondents :: Mr. S.Yashwanth
Additional Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents particularly the fifth respondent, the Executive Engineer, Public Works Department, Buildings C & M Division, Coimbatore, to disburse pensionary benefits such as Encashment of earned leave, unearned leave, surrender leave, salary for 15 years during which the petitioner was under suspension and arrears of pay and allowances. The petitioner claims that the amounts should be paid from 5.12.1988 till 30.06.2004 when the petitioner attained the age of superannuation. The petitioner places



reliance on G.O.(D).N0.36 dated 20.02.2020 of the Public Works Department, the petitioner had given a representation on 24.09.2024 in this regard.

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner, who had been appointed as Technical Assistant in the respondent Department and had joined duty on 07.07.1971 at Harur, Dharmapuri District was brought into regular service on and from 07.08.1976. In the year 1977-1978, a criminal case had been initiated by the Vigilance and Anti Corruption Department. The petitioner however was promoted as Junior Engineer on 23.05.1981 and completed probation in the year 1982. The petitioner was also arrayed as one of the accused in the aforementioned case registered by Vigilance and Anti Corruption Department. He was then placed under suspension. After investigation, the investigating authority filed final report which was taken cognizance as C.C.No. 1 of 1987 by the Chief Judicial Magistrate at Dharmapuri. The petitioner was continued to be placed under suspension. He then filed O.A.No. 3611 of 2001 challenging the order of suspension and the Tribunal quashed the order of suspension stating that prolonged suspension cannot be encouraged by law.



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3. The trial Court convicted the petitioner. The petitioner then attained the age of superannuation on 30.06.2004. Separate departmental proceedings were initiated and an order of dismissal from service was also passed against the petitioner herein. The petitioner then filed Crl.A.No. 956 of 2002 and the same came to be allowed by a Judgment dated 21.09.2017. The petitioner was acquitted of all charges.

4. This Court sought further instructions whether there further appeal was filed by the respondents / prosecution agency against such order of acquittal. It is informed that no such appeal had been preferred. It is also contended that the period of suspension was treated as period of duty by the respondents. It had been contended that in this connection, the respondents had also passed G.O.(D).No. 36, Public Works Department dated 20.02.2020 wherein it had been stated as follows in paragraph No.8:-

"8. The Government after careful examination of the proposal of the Engineer-in-Chief, Water Resources Department and Chief Engineer (General), Public Works Department, Chennai, order that the periods of suspension undergone by Thiru



G.N.Nataraj, Junior Engineer (retd.), Public Works Department, from 05.12.1988 AN (date of relief on suspension) to 06.06.2002 AN (date prior to revocation of suspension) and from 28.06.2004 FN (date of suspension) to 30.06.2004 AN (date of superannuation) be regulated as duty, as per Ruling 9 under Rule 54 of the Fundamental Rules and the period from 07.06.2002 FN to 27.06.2004 AN be regulated as compulsory wait as per Ruling 3 under Rule 9(6)(b) of the Fundamental Rules."

5. It had been very specifically stated that the period of suspension of the petitioner herein G.N.Nataraj, Junior Engineer, (retired), Public Works Department, should be regulated as duty as per Rule 9 of Rule 54 of Fundamental Rules. It is also stated that the particular period from 07.06.2002 till 27.06.2004 should also be regulated as compulsory wait under Rule 3 of Rule 9(6)(b) of Fundamental Rules.

6. The learned counsel for the petitioner placed reliance on the aforementioned Government Orders and sought that the arrears of various allowances which have to be paid to the petitioner should be settled immediately.



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7. On behalf of the respondents, instructions have been obtained and it is contended that the earned leave and unearned leave had been settled with the petitioner. It had been further contended that the salary and the surrender leave should be paid to the petitioner. It is contended that after getting remarks from the various Departments where the petitioner had served, the same would be discussed to the petitioner within a period of 12 weeks from the date of copy of this order.

8. In view of the fact that the respondents had considered the period of suspension of the petitioner as duty period and also as compulsory wait and had passed aforementioned G.O.D.No. 36, Public Works Department, dated 20.02.2020, a direction is issued to the respondents to pay the necessary emoluments to the petitioner as are required to be paid, within a period of 12 weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands allowed. No order as to costs.

17.02.2025

vsg
Index: Yes/No



Internet: Yes/No
Speaking / Non Speaking Order

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C.V.KARTHIKEYAN, J.,

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