



W.P. No. 32978 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

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THE HON'BLE Ms. JUSTICE R.N.MANJULA

**W.P. No. 32978 of 2019
and
W.M.P. No. 4728 of 2021**

V.Subramanian

... Petitioner

-VS-

1. The State of Tamil Nadu rep by its
Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Perambalur,
Perambalur District.
3. The Personal Assistant to District Collector,
Perambalur,
Perambalur District.
4. The Commissioner,
Veppanthttai Panchayat Union,
Veppanthattai Taluk,
Perambalur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records connected in Na.Ka.No.1214/2015/NMS-2 dated 11.05.2017 passed by the 2nd respondent and quash the same insofar as imposing the suspension



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period as punishment and direct the respondents to treat the suspension period from 30.04.1990 to 10.05.2017 as duty period as no charge/disciplinary proceedings was initiated against the petitioner and consequently direct the respondents to count the suspension period from 30.04.1990 to 10.05.2017 along with regular service for the purpose of pension and grant pension to the petitioner with effect from 01.07.2018.

For Petitioner : Mr.A.R.Suresh for Mr.K.Arumugam

For Respondents : Mr. V.Umakanth,
Government Advocate (for R1 to R3)

Mr. L.S.M.Hasan Fizal (for R4)
(vakalat return)

ORDER

The petitioner has filed this writ petition challenging the order in Na.Ka.No.1214/2015/NMS-2 dated 11.05.2017 passed by the second respondent and imposing the suspension period as punishment and direct the respondents to treat the suspension period from 30.04.1990 to 10.05.2017 as duty period as no charge/disciplinary proceedings was initiated against the petitioner and consequently direct the respondents to count the suspension period from 30.04.1990 to 10.05.2017 along with regular service for the purpose of pension and grant pension to the petitioner with effect from 01.07.2018.



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2. Heard Mr.A.R.Suresh for Mr.K.Arumugam, learned counsel for the petitioner and Mr. V.Umakanth,learned Government Advocate for the first to third respondents Mr. L.S.M.Hasan Fizal, learned counsel for the fourth respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner, who was appointed as Noon Meals Organizer with the fourth respondent, was placed under suspension on 30.04.1990. Thereafter, he had sent various representations to the second respondent /District Collector to reinstate him into service. The second respondent has not passed any orders and the matter was kept pending for many years. There is no disciplinary action was also initiated against the petitioner and then the petitioner's suspension was revoked on 11.05.2017 and he was reinstated into the service. Thereafter, the petitioner attained the age of superannuation on 30.06.2018 and he was allowed to retire with effect from 30.06.2018. In the impugned order it is stated that the petitioner will not get any back wages for the period during which he was out of service and that his reinstatement will be considered as new employment and he will not get any service benefits.



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3. The learned counsel for the petitioner submitted that the respondent did

not initiate any disciplinary action after keeping the petitioner under suspension for many years and hence, the period of suspension ought to have been treated as duty with continuity of service and that he is entitled to get all the terminal benefits. After the petitioner was suspended in the year 1990, the petitioner was simply sending request to revoke his suspension without initiating any legal action for revoking suspension and to get reinstated. Even the respondents did not think about initiating any disciplinary action by giving meaning to the order of suspension, which was issued against the petitioner in the year 1990.

4. All of a sudden, on 11.05.2017, a reinstatement order has been issued as though it was a fresh appointment. A person who is aged about 59 years could not have given with the fresh appointment and in whatever terms the impugned order calls it, an appointment cannot be construed as reinstatement or vice-versa.

5. The impugned order further states that the period of suspension cannot be treated as period of absence with pay. It is stated that the period for which the petitioner was under suspension should be treated as 'no work no pay' basis and that can be acceptable. However, for regulating the period for which the



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petitioner was out of service due to his suspension, some order has to be passed

WEB based on the service rules. But the order simply says without reference to any service rules that the petitioner is not entitled to any benefits.

6. As the order requires further clarity, the third respondent can be directed appropriately to issue clarification as to the petitioner's entitlement to prove the period out of service as any of the category falling under the service rules, irrespective of the fact about his entitlement of monetary benefits within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is disposed. Consequently, connected miscellaneous petition is closed. No costs.

21.02.2025

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

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WEB COPY



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R.N.MANJULA, J.

Maya

To

1. The Secretary to Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Perambalur,
Perambalur District.
3. The Personal Assistant to District Collector,
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