
(2006) 04 MAD CK 0174

In the Madras High Court

Case No : Writ Petition No. 3570 of 2006 and W.V.M.P. No. 12013 of 2006

R. Duraikannu

APPELLANT

Vs

The Director of Sericulture

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Citation : (2006) 04 MAD CK 0174

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : S. Mani, for the Appellant; Suresh Viswanath, GA, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—The prayer in this writ petition is to issue a writ of mandamus to quash the order dated 18.12.1998 and for a

direction to the respondent to pay salary to the petitioner from 26.04.1994 till 21.09.1996 with interest at the rate of 12%.

2. The facts necessary for the disposal of the writ petition are that the petitioner was terminated from service by the order dated 04.12 .1987. The

said order of termination was challenged before the Tribunal in O.A. No. 1448/1991 and the same was allowed on 26.04.94, directing the

respondents to reinstate the petitioner in service as Practical Sericulturist within a period of two months from the date of receipt of a copy of the

order, but without backwages and to count the earlier period of service after condoning the breaks for the purpose of pension.

3. According to the petitioner, the said order having not been implemented, he filed contempt application before the Tribunal and thereafter, only

on 29.01.1996, the petitioner was given reinstatement and no salary for the

period from 26.04.94 to 29.01.96 was given. The petitioner after rejoining in the service, claimed the salary for the period from 26.04.94 to 29.01.96 and the same was rejected by the respondent by stating that the said period will be taken for pension purpose only and no salary is payable.

4. The learned Counsel submits that the Tribunal in the order dated 06.04.94, directed only two months time to reinstate the petitioner and

therefore, the petitioner is entitled to get salary after the expiry of twomonths, i.e., from 26.06.94 and there is no justification for not reinstating the

petitioner from 26.06.94 to 29.01.96. The learned Counsel also cited a Judgment of the Hon"ble Supreme Court reported in (2005) 11 SCC 513

(State of M.P. and others v. Sanjay Kumar Sharma) wherein the Hon"ble Supreme Court held that the State should have reinstated the

respondent in the Civil Appeal, and having delayed the issuance of the reinstatement order, a direction was issued to the State to pay backwages

to the respondent from the date of the order of the Tribunal till the reinstatement in service.

5. In this case, the Tribunal ordered reinstatement within a period of two months from 26.04.94 and therefore, the respondent is bound to

implement the order atleast from 26.06.94 and there is no explanation given by the respondent as to why the delay has occurred and no extension

of time is also obtained from the Tribunal.

6. The learned Counsel for the petitioner submitted that he has not pressed the interest portion of the prayer.

7. Taking note of the said submissions, the Impugned order is set aside and the writ petition is allowed with the following direction

The respondent is directed to pay salary and other benefits to the petitioner from 26.06.94 to 28.01.96. The said period should also be counted

for all other service benefits. The arrears of salary payable to the petitioner shall be calculated and paid to the petitioner within a period of four

weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed in the above terms. No costs. Consequently, connected W.V.M.P. is closed.