

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 35752 of 2009 (L)

PETITIONER(S):

**E.EZHAKIL, S/O. JOSEPH ENASE,
AGED 59 YEARS, BLESS VILLA, PONNANI P.O.
MALAPPURAM DIST.**

**BY ADVS.SRI.M.BALAGOVINDAN
SRI.VINOD J.DEV
SMT.MINI GANGADHARAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REP. BY ITS
SECRETARY, GENERAL EDUCATION, STATE
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DISTRICT EDUCATIONAL OFFICER,
THIRUR.**
- 3. THE MANAGER, M.I. HIGHER
SECONDARY SCHOOL, PONNANI.**
- 4. THE HEAD MASTER , M.I. HIGHER SECONDARY
SCHOOL, PONNANI.**
- 5. ASSISTANT PROVIDENT FUND COMMISSIONER,
DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM.**

**R,R3-R4 BY ADV. SRI.K.M.FIROZ
R,R3-R4 BY ADV. SMT.M.SHAJNA
R BY GOVERNMENT PLEADER SRI. S. JAMAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1** COPY OF COMMUNICATION ISSUED BY 4TH RESPONDENT ON THE BACK SIDE OF THE LEAVE APPLICATION SUBMITTED BY PETITIONER.
- EXT.P2** COPY OF LEAVE APPLICATION SUBMITTED BY PETITIONER DTD. 19.1.04
- EXT.P3** COPY OF 2ND LEAVE APPLICATION SUBMITTED BY PETITIONER.
- EXT.P3(A)** COPY OF MEDICAL CERTIFICATE SUBMITTED ALONG WITH EXT.P3
- EXT.P4** COPY OF COMMUNICATION DTD.8.12.04 ISSUED BY THE 3RD RESPONDENT.
- EXT.P5** COPY OF THE COMMUNICATION ISSUED BY THE R3 DTD.31.1.05
- EXT.P6** COPY OF THE LETTER ISSUED TO 1ST RESPONDENT BY 2ND RESPONDENT DTD.16.2.05
- EXT.P7** COPY OF LETTER ISSUED BY 3RD RESPONDENT DTD.28.9.05
- EXT.P8** COPY OF FITNESS CERTIFICATE ISSUED TO PETITIONER DTD.29.7.05
- EXT.P9** COPY OF THE REPRESENTATION DTD.15.2.06 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P10** COPY OF THE JUDGMENT IN W.P.(C) NO.9751/2006 ON THE FILE OF THIS HON'BLE HIGH COURT DTD.11.6.09
- EXT.P11** COPY OF THE ORDER G.O(RT) NO.4747/09 DTD.6.11.09
- EXT.P12** COPY OF THE PROVIDENT FUND SANCTION ORDER DTD.6.10.09
- EXT.P13** COPY OF THE REJECTION OF THE REQUEST FOR PAYMENT OF INTEREST BY THE ASSITANT PROVIDENT FUND OFFICER DTD.7.11.09
- EXT.P14** COPY OF COMMUNICATION DTD.5.6.10

RESPONDENTS EXHIBITS:

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.35752 of 2009 - L

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Dated this the 9th day of October, 2015

J U D G M E N T

The petitioner impugned Ext.P11 order of the Government. The petitioner admittedly had been on leave for more than three years. Initially the petitioner had taken a short period of leave from 29.03.2005 to 30.06.2005, which was sanctioned by the 4th respondent. Subsequently, the petitioner had been intermittently applying for leave and remained absent between 17.10.2003 to 31.03.2006.

2. As per the provisions of the K.E.R, the petitioner had to apply for leave beyond 120 days before the authorities under the K.E.R. The leave applications were forwarded to the Deputy Director of Education, Malappuram, but the same is said to have been returned for reason of there being no proper medical certificate. The Deputy Director of Education, also had

directed that the petitioner be examined by a Medical Board and a certificate be produced. The said communication was intimated to the petitioner by Ext.P7. Later the petitioner approached this Court to urge consideration of the leave application by the Government. This Court noticing the fact that the petitioner had been recalcitrant in giving proper medical certificates, directed that if a fresh medical certificate as required in the counter affidavit of the Government is produced, then the issue of regularisation of the period shall be considered in accordance with law. Ext.P11 is the order passed in compliance with the judgment, and impugned herein.

3. In Ext.P11, it is found that the period from 17.10.2003, to 31.03.2006 was examined and till 28.03.2005, the same was deemed as Leave Without Allowance on medical certificate and the later period, as Leave Without Allowance other than on medical certificate. The operative portion is extracted hereunder:

The Leave Without Allowance on Medical Certificate will not be counted for accumulation of Earned Leave and Leave Without Allowance otherwise than on Medical Certificate will not be counted for increment, higher grade pension and accumulation of Earned Leave. The District Educational Officer, Tirur is directed to disburse consequent the benefits to the petitioner as per Rules.

This Court does not find any sustainable reason to interfere with the order passed. The writ petition hence would stand dismissed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/09/10/2015

// true copy //

P.A to Judge.