

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

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WRIT PETITION No.34636 of 2014

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ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The 1st respondent herein is a School Assistant in Hindi. While she was working at Kannepalli in Adilabad District, she applied for medical leave from 22.07.2009 to 30.11.2009. Her request was acceded to, and she was sanctioned medical leave. While she was on medical leave, the Government undertook the exercise of transfers. The 1st respondent applied online in the counseling process, and sought transfer to the Zilla Parishad High School at Tandoor. Contending that she was entitled to be posted at Bellampalli, she filed O.A. No.9016 of 2009 and the Tribunal, by its order dated 25.09.2009, directed the petitioners herein to consider and pass appropriate orders on the 1st respondent's application dated 18.09.2009 (seeking transfer to Bellampalli) within a period of two weeks from the date of receipt of a copy of the order. On expiry of the medical leave on 30.11.2009, the 1st respondent reported for duty on 01.12.2009. The petitioners herein did not issue any posting orders on the ground that, in the interregnum, both the posts at Kannepalli and Tandoor had been filled up. The 1st respondent was, thereafter, posted as School Assistant at Jaipur in Adilabad District by proceedings dated 11.06.2010, and she joined duty thereat on 12.06.2010. She was, however, denied salary for the period from 01.12.2009 to 11.06.2010.

The 1st respondent filed O.A. No.8387 of 2011 and, by its order dated 20.03.2013, the Tribunal held that the 1st respondent had reported to duty immediately after expiry of leave; it was only on account of the clarification sought by the 1st petitioner herein, had the delay occurred; the delay could not be attributed to the 1st respondent; the 1st respondent had filed O.A. No.2257 of 2011 requesting that she be posted to another station but the O.A. was closed; O.A. No.2257 of 2011 had no effect on availment of leave by the 1st respondent as she was entitled to remain absent during

the period of medical leave already granted to her; and, consequently, the order of the 1st respondent, refusing to treat the period as compulsory wait, was liable to be set aside.

Learned Government Pleader for Services is unable to show how the 1st respondent was at fault in not joining duty prior to 12.06.2010, as she was issued posting orders only on 11.06.2010. It is not in dispute that, on expiry of her medical leave, she reported for duty on 01.12.2009. While she may well have sought transfer to Bellampalli, it is not as if the petitioners herein had acceded to her request resulting in any delay in her reporting for duty at Bellampalli. The 1st respondent was, in fact, transferred and posted at Jaipur in Adilabad District, and not at the place of her choice. The delay on the part of the petitioners herein, in issuing posting orders to the 1st respondent, cannot justify denial of her salary for the period from 01.12.2009 to 11.06.2010, as the delay in issuing posting orders was for no fault of hers. We see no error in the order of the Tribunal necessitating interference under Article 226 of the Constitution of India. The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

(M. SATYANARAYANA MURTHY, J)

Date: 04.03.2015

MRKR