

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.33435 of 2016

and WMP.No.28873 of 2016

1 M.Boopathi ... Petitioner

Vs.

1 The Principal District Judge
Tiruppur, Tiruppur District

2 The Judicial Magistrate
Palladam, Tiruppur District ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Mandamus directing the respondents to permit the petitioner to join duty as per his Letter dated 4.7.2016 withdrawing the resignation with all attendant benefits.

For Petitioner : Mr.P.Rajendran
For Respondents : Mr.E.K.Kumaresan

सत्यमेव जयते
ORDER

(Order of the Court was made by Huluvadi G.Ramesh, J)
Heard the learned counsel for the respective parties.

2. The petitioner was working as a Junior Assistant in the Judicial Magistrate Court, Palladam, Tiruppur District. On 18.06.2016, the petitioner applied for leave for two days, viz., 20.06.2016 and 21.06.2016, for the purpose of taking care of his child and the said leave letter was handed over to the Head Clerk, since the Judicial Magistrate, Palladam was not available at that point of time. After joining duty on 22.06.2016, due to some misunderstanding between the Judicial Magistrate, Palladam, and the petitioner, the petitioner submitted a resignation

letter on 22.06.2016 to the Principal District Judge, Tiruppur, however, thereafter on 04.07.2016, the petitioner withdrawn his resignation, but did not receive any communication, but he was not permitted to join duty since 22.06.2016. Now, the Writ Petition is filed seeking a direction to the respondent to permit him to join duty as per his letter dated 04.07.2016, wherein, he withdrew his resignation.

3. On 05.10.2016, when this matter was listed for hearing, learned counsel for the petitioner placed reliance on the decision of this Court reported in (2016) 5 MLJ 859 (G.Parameshwari Vs. Registrar General, High Court, Madras and others and sought for a direction to the respondents to permit the petitioner to join duty. Taking note of the facts of the case, this court, vide interim order dated 05.10.2016, directed the respondents to permit the petitioner to join duty and accordingly, now it is reported that the petitioner joined duty.

4. We have heard the submission of the learned counsel appearing for both sides and perused the records carefully. We have also gone through the averments made in the counter affidavit filed by the concerned Magistrate, Palladam.

5. On going through the records and the judgments referred to by the petitioner, it is seen that the resignation letter was tendered by the petitioner due to some untoward occurrence happened on 22.06.2016 and because of the treatment meted out to him. On an anxious consideration of the matter before us, we could make out that the Petitioner, who is a Junior Assistant, applied for 2 days leave, but on joining the duty on 22.6.2016, due to the treatment meted out to him by the Judicial Magistrate, Palladam, at the spur of the moment, the petitioner had taken a decision to tender resignation and it appears that the authority had accepted the resignation on the very same day, even without waiting for the statutory period of 90 days.

6. In normal circumstances, resignation has to be accepted either on the date chosen by the employee mentioned in the notice/resignation letter or on the expiry of the statutory period of 90 days and the resignation could not have been accepted on any earlier date. However, in the case on hand, the resignation has been accepted by the Higher Judicial Officer, in a hurried manner. We are also of the view that the conduct of the judicial officer is not appreciable.

7. In these circumstances, the resignation accepted by the respondents is hereby set aside and further the interim order granted by this court directing the respondents to permit the petitioner to join duty is made absolute. The Writ Petition

stands allowed. No costs. Consequently, connected WMP No.28873 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri

To

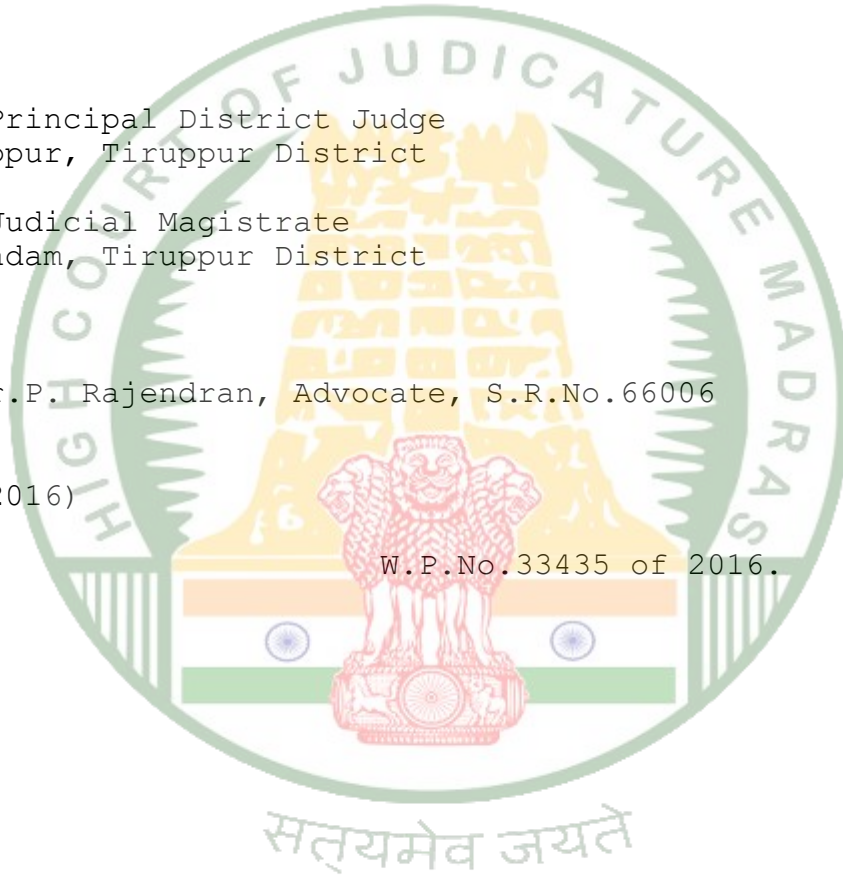
1 The Principal District Judge
Tiruppur, Tiruppur District

2 The Judicial Magistrate
Palladam, Tiruppur District

+lcc to Mr.P.Rajendran, Advocate, S.R.No.66006

msm(CO)
md(29/12/2016)

W.P.No.33435 of 2016.



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