



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE **S.VIMALA**

W.P(MD)No.21206 of 2016

K.Ramachandran

: Petitioner

Vs.

1.The Principal Secretary to the Government,
Department of Personnel and Administrative Reforms,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City, Madurai District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to grant leave to the petitioner for a period of 18 months in light of G.O.Ms.No.596, Personnel and Administrative Reforms (FR-II) Department, dated 03.11.1989 issued by the first respondent.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.A.Muthukaruppan,
Additional Government Pleader.

ORDER

This writ petition has been filed for issuance of Writ of Mandamus, directing the second respondent to grant leave to the petitioner for a period of 18 months in the light of G.O.Ms.No.596, Personnel and Administrative Reforms (FR-II) Department, dated 03.11.1989, issued by the first respondent.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The case of the petitioner is that the petitioner is presently serving as Grade I Police Constable in B2 Crime Police Station at Madurai. He suffered from Kidney failure/Chronic Kidney Disease and he underwent dialysis treatment for two years



from 2014 to 2016. He was admitted at Shastha Kidney and Multi Speciality Hospital at Madurai District and transplantation surgery was performed on 29.01.2016 and he was discharged on 13.02.2016. The doctor advised him to take complete rest for a period of two years. In the light of G.O.Ms.No.595, dated 03.11.1989, he is entitled for leave for a period of 18 months. Therefore, he requested to grant leave by submitting medical certificate dated 29.10.2016. Since leave was not granted, he made a representation on 17.06.2016 to the second respondent. As the same was not considered so far, this writ petition has been filed.

4.Relying upon G.O.Ms.No.596, Personnel and Administrative Reforms (FR-II) Department, dated 03.11.1989 and Proviso Clause 3 of Rule 15 the Tamil Nadu Leave Rules, 1933, the learned counsel for the petitioner would submit that the petitioner is eligible for leave for the period, for which, a certificate is given by the recognised institution, where the Government Servant has undergone such treatment and the same reads as follows:

"15.Leave on medical certificate may be granted to a permanent Government Servant in superior service for eighteen months in all, only on production of a certificate from such medical authority as the Government may, by general or special order, prescribe and for a period not exceeding the period of leave recommended in the certificate with reference to the period of service specified in column (1) of the Table below subject to the restriction of the period of leave specified in the corresponding entry in column (2) thereof.

The Table

Period of service (1)	Period of leave (2)
Up to and inclusive of 5 years	... 3 months.
More than 5 years but up to and inclusive of 10 years.	...6 months.
More than 10 years but upto and inclusive of 15 years	...9 months.
More than 15 years but up to and inclusive of 20 years	... 12months.
More than 20 years	... 18 months.

Provided also that with effect on and from the 10th April 1988, an approved probationer or a permanent Government servant who undergo coronary surgery, Kidney transplantation or Retina transplantation shall also be



permitted to avail Unearned leave on Medical certificate without the restriction stipulated in this rule for the period for which a certificate is given by a recognised institution, wherein the Government servant undergo such treatment".

WEB COPY

5.The learned Additional Government Pleader would submit that the petitioner can be referred to the Medical Board and subject to the opinion of the Medical Board, leave would be sanctioned.

6.The learned counsel for the petitioner would submit that subject to the opinion of the Medical Board, if the petitioner is eligible for any benefit as contemplated under Section 47(1) of Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1985, the same shall also be conferred upon the petitioner.

7.In view of the same, the second respondent is directed to refer the petitioner for the opinion of the Medical Board within a period of two weeks from the date of receipt of a copy of this order and subject to the opinion being offered by the Medical Board, the privileges and benefits to be conferred on the petitioner, shall be considered by the second respondent.

8.With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(REcords)

/True Copy/

Sub Assistant Registrar

smn

To

1.The Principal Secretary to the Government,
Department of Personnel and Administrative Reforms,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City, Madurai District.

+1cc to Mr.T.Lajapathi Roy,Advocate Sr.No. 66133

JAM/18.11.16/CK/ 3p-4c

**ORDER MADE IN
W.P(MD)No.21206 of 2016**