

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1265 of 2017
and
CMP.No.17541 of 2017

E.Manjula ... Appellant

vs.

1. Director of Treasuries & Accounts,
Saidapet, Chennai - 600 015.
2. Joint Director of Treasuries & Accounts,
Kancheepuram, Kancheepuram District.
3. Assistant Treasury Officer,
Chengalpattu, Kancheepuram District. ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 31.08.2017 passed by the learned Single Judge of this Court in WP.No.12953 of 2016.

PRAYER IN WP.12953 OF 2016:

Petition Under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified mandamus, Calling for the records pertaining to the order passed by the 1st Respondent in his proceedings Na.Ka. No.38663/ 15/C1 dated 16.09.2015 and the charge memo issued by the 2nd Respondent in his proceedings Na.Ka. No.1638/ 2016/A2 dated 01.02.2016 and quash the same, and direct the Respondents to sanction Un-earned leave on Medical Certificate to the petitioner and regulate the period from 14.09.2015 to 15.04.2016 and confer all the consequential benefits.

For Appellant	: Mr.P.Ganesan for M/s.C.S.Associates
For Respondents	: Mr.P.S.Sivashanmugasundaram, Special Government Pleader.

JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

2.The unsuccessful writ petitioner is the appellant herein. The present writ appeal has been directed against the order dated 31.08.2017 passed by a learned Single Judge in W.P.No.12953 of 2016.

3.By the order impugned herein, the learned Single Judge has dismissed the writ petition, observing thus:

"9.Mere filing of the writ petition will not be construed that the employee can remain in leave or in absence without joining in the transferred place. The order of Status quo granted will not prevent the writ petitioner from joining in the transferred place. Further, the writ petitioner has not taken any steps for joining in the transferred post at Chennai. This being the factum of the case, the question of considering the case of the writ petitioner will not arise at all.

10.A charge memo issued under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules has to be proceeded, in accordance with the Rules. It is left open to the writ petitioner to submit her explanations/objections to prove her innocence before the enquiry proceedings under the Rules and charge memo cannot be quashed, merely on the ground that the charge is relating to the non-joining of the writ petitioner in the transferred place. Even disobedience is also a mis-conduct, contemplated under the Conduct Rules. An employee can be issued with a charge memo on the ground of disobedience of the orders of the superior also. The manner in which the misconduct of disobedience has been considered for the purpose of framing charges has to be dealt with, in accordance with the Rules by the enquiry officer so appointed, in this regard. Such being the factum of the case, no further adjudication on merits, needs to be undertaken on the grounds raised in this writ petition."

4.The brief facts of the case are that the appellant joined as Junior Assistant on 25.08.2000. After completion of probation period, her service was regularised. While she was working as Accountant in Kancheepuram District Treasury Unit,

Sub Treasury, Chengalpattu, she was issued with an order dated 16.09.2015, transferring her to Chennai. However, she did not join the transferred place. As such, she was issued with a charge memo dated 01.02.2016 under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. Challenging the transfer order as well as the charge memo, she preferred WP.No.12953 of 2016, which was dismissed by the learned Single Judge. Hence, this Writ Appeal.

5. On 20.10.2017, when the writ appeal was taken up for consideration, this Court, while ordering notice to the respondents, declined to grant an order of interim stay and permitted the appellant to join the transferred place at Chennai.

6. Today, when the matter came up for hearing, learned counsel for the appellant submitted that as per the order of this Court dated 20.10.2017, the appellant reported to duty in the transferred place, which fact is also admitted by the learned Special Government Pleader appearing for the respondents.

7. In view of the submission so made by the learned counsel for the appellant, we are of the opinion that since the charges framed against her are relating to the non-joining of the appellant in the transferred place, the same are liable to be dropped.

8. Accordingly, the writ appeal is allowed by setting aside the order passed by the learned Single Judge. Consequently, the charge memo dated 01.02.2016 issued by the second respondent stands quashed. However, the appellant is not entitled to get any backwages for the period, during which, she was not working by applying the principle of 'no work no pay'. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS-vii)

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Sub Assistant Registrar

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To

1.The Director of Treasuries & Accounts,
Saidapet, Chennai - 600 015.

2.The Joint Director of Treasuries & Accounts,
Kancheepuram, Kancheepuram District.

3.The Assistant Treasury Officer,
Chengalpattu, Kancheepuram District.

+lcc to Mr.C.S.ASSO. Advocate, S.R.No. 80644

+lcc to the Government Pleader, S.R.No. 80543

W.A.No.1265 of 2017

KAN(CO)
TR(22/01/2018)



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