

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21095 of 2004

Mr.J.Sathiaseelan

... Petitioner

Vs.

1. The Block Development Officer,
T.Pazhur Panchayat Union,
Udayarpalayam Taluk,
Perambalur District.
2. The Block Development Officer (Scheme)
T.Pazhur Panchayat Union,
Udayarpalayam Taluk,
Perambalur District.
3. The Manager,
T.Pazhur Panchayat Union,
Udayarpalayam Taluk,
Perambalur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the order in R.C.No.3538/2003/A-1 dated 23.03.2004 passed by the first respondent and quash the same as illegal, improper, unreasonable arbitrary and against the rule of law and natural justice and there by direct the respondent to pay the service and Monetary benefits from 12.01.2004 to 16.03.2004 to the petitioner.

For Petitioner : Mr.P.Murugan

For Respondents : Mr.S.Kandasamy

O R D E R

The petitioner filed a writ petition challenging the order dated 23.03.2004 wherein the petitioner requested to treat the leave period from 12.01.2004 to 16.03.2004 as duty period and consequently direct the respondent to pay the monetary benefits.

2. The case of the petitioner is that the petitioner was appointed as a Junior Assistant in the first respondent office. Thereafter, he was posted on deputation to the District Collectrate, Perambalur District due to the personal dispute

with one S. Ramaraj who is the then Manager of the T.Pazhur Panchayat Union/3rd respondent.

3. The petitioner sent the leave application to the first respondent wherein he stated that he has taken treatment from 30.12.2003 to 09.01.2004 and the said illness was conveyed to the concerned officer through telegram. However, after recovery from sickness, the first respondent accepted petitioner's request and permitted the petitioner to join the duty and accordingly, the petitioner joined the duty on 10.01.2004 with medical certificate. On the same day itself, the petitioner has been allotted work to Vemmankondam "Pongal week work" from 12.01.2004 to 17.01.2004. However, the Block Development Officer/2nd respondent directed the petitioner not to attend the work since his medical certificate has been referred to the Medical Board, Joint Director(Welfare Service). Even after the receipt of order of the Medical Board, the petitioner was not permitted to continue in service. Aggrieved against the inaction of the respondent, the petitioner filed a writ petition in W.P.No.5938 of 2004 before this court to direct the respondent to permit the petitioner to continue his service as Junior Assistant in the office of the first respondent. On 11.03.2004, this court has issued a direction to the respondents to consider the representation made by the petitioner on 03.03.2004 and to pass appropriate order, within a week from the date of receipt of copy of the said order.

4. Pursuant to the order of the court, the petitioner joined duty under the respondent's office. However, the petitioner was transferred to the Collectorate Office on deputation on the same post. The petitioner made a representation to treat the period from 12.04.2004 till 06.03.2004 as duty period. However, the respondent passed an impugned order stating to treat the petitioner's leave from 12.01.2004 to 10.02.2004(30 days) as EL and 11.02.2004 to 16.02.2004(35 days) of leave as loss of pay. Aggrieved by the same, the petitioner filed the present writ petition.

5. Learned counsel for the petitioner submitted that the order of the authority is arbitrary and the respondent has not considered the medical certificate and has referred the same to the medical board for verification and the petitioner was not given Earned Leave. He further submitted that the petitioner is working as a Deputy Block Development Officer.

6. Learned counsel for respondent filed a counter and on perusal of the counter affidavit, it is averred that on 03.03.2004, the petitioner has requested the respondent to treat his absence from 10.02.2004 as Earned Leave and to allow him to sign the attendance. However, the request of the petitioner was rejected on the ground that when a person not attend the

duty, he could not be permitted to sign the attendance for the lapse period. It is for the authority to consider the same as per the relevant rules. Accordingly on 23.03.2004, the first respondent/Block Development Officer has passed the order. Aggrieved by the same, the present writ petition is filed.

7. The authority passed an order stating that the period from 12.01.2004 to 10.02.2004 for 30 days is regularized as Earned Leave and as per the relevant rules, petitioner is eligible to receive full Pay and Allowances. For the period from 11.02.2004 to 16.03.2004 for 35 days which was regularized as 'Leave on Loss of Pay' he is not entitled to receive any Pay and Allowances.

8. After the above said order, the petitioner was given promotion and he served in various departments.

9. Considering the order of this court, the petitioner was given promotion and he is now working as Deputy Block Development Officer. After a lapse of thirteen years, I do not find that anything would survive for adjudication in this writ petition since the petitioner got promotion to the higher post.

In the result, writ petition is dismissed. No costs.

gv

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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T.Pazhur Panchayat Union,
Udayarpalayam Taluk,
Perambalur District.
2. The Block Development Officer (Scheme)
T.Pazhur Panchayat Union,
Udayarpalayam Taluk,
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3. The Manager,
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Perambalur District.

+1cc to M/s S.Kandasamy, Advocate Sr.69239

W.P.No.21095 of 2004

*** (CO)
RVR 15/11/2017



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