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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 17.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.1015 of 2014
and
M.P.[MD]No.1 of 2014

- 1.The District Social Welfare,
Chepauk, Chennai.
 - 2.The District Social Welfare Officer,
Virudhunagar,
Virudhunagar District.
 - 3.The Director of Integrated Child
Development Service Scheme,
Department of Integrated Child
Development Service Scheme,
Periyappa Nagar,
Tharamani, Chennai - 113. ... Appellants/Respondents
- Vs.
- R.Mayarethinam ... Respondent / Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the impugned order dated 22.08.2012 passed in W.P.(MD) No.2510 of 2006 and dismiss the writ petition.

Prayer in WP(MD). 2510/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in connection with the order passed by him in his proceedings in Na.ka.no. 9778/NIR-6-1/98 dated 25/05/99 served on 30/06/99 and quash the same and direct the respondents to treat the period of service of the petitioner from 02/12/93 to 22/03/94 as compulsory wait period and pay the salary to the petitioner for the period from 02/12/93 to 22/03/94.

For Appellants : Mr.T.S.Md.Mohideen
Additional Government Pleader

For Respondent : Mr.O.Sivakumar

**JUDGMENT**

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This writ petition has been filed challenging the order dated 22 August 2012 allowing W.P.(MD) no.2510 of 2006.

2.The respondent herein entered service as Driver on 29 May 1985 at Kodaikanal Taluk Project Nutrition Office. Thereafter, he was working at District Social Welfare Office, Virudhunagar. By order dated, 29 November 1993, he was sponsored to work as Driver in the Office of Zonal Project Nutrition Officer, Usilampatti in a newly sanctioned post. He was relieved and asked to handover charge to one Subburaj. He was instructed to get posting orders from the Project Co-ordinator, Tamilnadu Integrated Nutrition Project, Adyar, Chennai -20. Accordingly, the writ petitioner reported to the Project Co-ordinator and sought posting orders. But, he was not issued with any posting orders. Only on 10 March 1994, he was issued with an order posting him at Usilampatti. Immediately on receipt of such posting order, the writ petitioner joined in the new place. But, for no fault on his part from 02 December 1993 to 22 March 1994, he was not paid with any salary. He was therefore representing to the authorities for payment of salary for the said period. He wanted the said period to be treated as one on compulsory wait. But, there was no response to his request. Finally, by order dated 25 May 1999, he was informed that his request stood rejected. Aggrieved by the rejection of his request, he filed W.P.(MD) No.2510 of 2006. The said writ petition was allowed by order dated 22 August 2012. Hence, this intra court appeal.

3.We have heard the learned Special Government Pleader appearing for the appellants and also the respondents.

4.It is not in dispute that the writ petitioner was relieved from Virudhunagar and asked to report to the Superior Officer for getting further posting orders. The writ petitioner accordingly complied with the instructions of his superior. There was a delay in issuing posting orders. Immediately on receipt of the posting order, the writ petitioner joined in the new place. The writ petitioner did not contribute to the said delay. It is the authorities, who caused the delay in issuing new posting orders. Therefore, the principle of 'No work, No pay' cannot be applied in this case. When the writ petitioner cannot be blamed or held responsible, the authorities were not justified in rejecting his request for treating the said period as one on compulsory wait and for payment of salary. The learned Judge rightly quashed the impugned order in the writ petition. We find no reason to interfere with the said order.



5.This writ appeal is without merit and stand dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar

+1cc to M/S.Special Government Pleader,SR.66156

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