

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-04-2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.31862 OF 2017

Dr.P.N.Madan Raj

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Petitioner

-vs-

1.The Director,
Public Health & Preventive Medicine,
No.359, Anna Salai, DMS Complex,
Chennai-600 006.

2.The Director,
Industrial Safety & Health,
47/1, Thiru Vi Ka Industrial Estate,
Guindy,
Chennai- 600 032.

3.The Block Medical Officer,
Govt.Upgraded Primary Health Centre,
Mudur, Arakkonam Block,
Vellore District-631 003.

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of writ of mandamus, directing the first respondent to consider the petitioner's representation, dated 08.03.2017, for treating the 6 ½ months delay period (from 09.07.2015 to 21.01.2016) in implementing the court order, to issue posting order as compulsory wait, and to sanction the 69 days earned leave applied to the second respondent, for the purpose of service break regularisation, on merits and in accordance with law within a reasonable time frame, as fixed by this Court.

For petitioner : Mr.M.Naresh Babu

For respondents: Mr.V.Kadhirvelu,
Special Govt. Pleader.

O R D E R

This Writ Petition has been filed by the petitioner, challenging the inaction of the first respondent to dispose of his representation to regularise his service, after his relief from the second respondent, to which he was sent on deputation, for joining duty under the first respondent, with a prayer to consider his representation submitted in that regard, within a stipulated period.

2. It appears from the averments of the writ petition that the petitioner, who was serving as a doctor, was sent on deputation to the second respondent on foreign service terms and conditions and, pursuant to the order of deputation, he was relieved from duty by the first respondent on 17.12.2014 and joined on duty under the second respondent on 18.12.2014. While he was so serving under the second respondent, he was relieved from there on 30.04.2015, without any posting order. After such relief, the petitioner approached the first respondent, but he did not respond. Therefore, the petitioner filed a writ vide W.P.No.20349 of 2015, which was disposed of on 09.07.2015, directing the first respondent to issue posting order to the petitioner forthwith. Notwithstanding such order, no posting was given and it was only after a period of six-and-a-half months, he was allowed to join. The present posting order was given on 21.01.2016 and he joined on duty on 22.01.2016. From the date of relief by the second respondent till the petitioner was allowed to join duty in the place as directed by the first respondent vide letter, dated 27.10.2015, the petitioner's service has not been regularised nor has he been paid salary and other dues. Hence, the petitioner submitted a representation, dated 08.03.2017, to the first respondent, which is still pending. Hence, this Writ Petition, with the prayer as stated earlier.

3. No counter affidavit has been filed by the respondents.

4. However, considering the limited prayer of the petitioner, this Writ Petition, with consent of the parties, is taken up for disposal at the stage of Notice Regarding Admission, without counter affidavit.

5. Since the petitioner has a genuine grievance and has also submitted a representation in that regard, the first respondent could not have sat over the said representation for such a long time and, therefore, there is a clear inaction on the part of the first respondent in disposing of the representation of the petitioner, which is not permissible in law.

6. In the given situation, this Court disposes of this Writ Petition, with a direction to the first respondent to consider the representation of the petitioner, dated 08.03.2017, and pass a reasoned order thereon on merit and in accordance with law, within a period of two months from the date of receipt or production of a copy of this order, and communicate the same to the petitioner. However, it is made clear that this Court has not expressed any opinion on the merit of the representation. But, while considering the said representation, the authority must take into consideration the fact that the petitioner, after his relief, though was expecting the posting order, was not given the same immediately, and the same was given at a belated stage, on which, the petitioner appears to have prima facie no contribution. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Director,
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3.The Block Medical Officer,
Govt.Upgraded Primary Health Centre,
Mudur, Arakkonam Block,
Vellore District-631 003.

+1 cc to M/s.M.Naresh Babu Advocate sr 28680

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