

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.06.2018
CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 35322 of 2006
and
M.P.No.1 of 2007

T.N.Sankarasundaram

...Petitioner

Versus

1. The State of Tamilnadu rep.
By the Secretary to Government,
Information and Tourism Development
Department, Fort St.George,
Chennai-600 009.
2. The Director/Commissioner of
Stationery and printing,
Anna Salai, Chennai-600 002.
3. The Special Commissioner/Commissioner,
Stationery and printing,
Anna Salai, Chennai-600 002.Respondents

PRAYER:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first and second respondent in connection with the orders issued in G.O.Ms.No.63, I & T Dept., dated 14.03.2006 and consequential orders issued in Government letter No.E2/14848/2006, dated 20.04.2006 and Government Letter No.E2/21905/2006, dated 18.05.2006 respectively and quash the same and consequently direct the respondents to pay all monetary and service benefits to the petitioner.

For Petitioner : Mr.R.Karthikeyan
For Respondents : Mr. K.Ravikumar, AGP

ORDER

The petitioner has filed this writ petition challenging the order dated 14.03.2006 made in G.O.Ms.(63) Information and Tourism (S&P-I) Department, wherein the petitioner's representation dated 16.02.2004 to treat the period from 13.08.1994 to 30.08.1996 as duty period was rejected.

2.The case of the petitioner is that he was initially appointed in the post of Technical Assistant by direct recruitment and joined duty on 18.04.1958. Subsequently, he was promoted to different levels as Deputy Works Manager and Works Manager. The Works Manager post was one among the staffing pattern, approved on the establishment of Government Central Press, Chennai in G.O.Ms.No.312, I & T Department, dated 08.12.1993. The said G.O. was challenged before this Court in so far as it relates to the transfer of post from one District to another and this Court has stayed the operation of the said G.O. In WMP.No.3259 of 1994 in W.P.No.1997 of 1994. Whiles, the petitioner was transferred to Government Branch Press, Madurai in the post of Works Manager in G.O.Ms.No.213, dated 12.8.94 and G.O(4D)No.12 I &T Department dated 12.8.1994. The said G.O relates to transfer of Works Manager from Madras to Madurai. Since the petitioner had not joined duty in the transferred post from 13.08.1994 to 30.08.1996, departmental proceedings were initiated against him and his leave period has not been regularized. Hence, the petitioner filed O.A.Nos.7132 of 1997 and O.A.No.2889 of 2000 before the Tamil Nadu Administrative Tribunal and the Tribunal by an order dated 05.03.2002 had directed the respondent to regulate the period of absence as per rules. Whiles, the Government passed G.O.(3D) No.5 Information and Tourism Department dated 22.09.2003 by invoking Rule 85(b) of the Fundamental Rules for grant of Extra Ordinary Leave. Accordingly, the petitioner's absence for the period from 25.01.1996 to 30.08.1996 were declared as Extra Ordinary Leave without Medical Certificate. Therefore, the petitioner filed O.A.No.1112 of 2004 before the Tamil Nadu Administrative Tribunal, Chennai praying to set aside the order passed in G.O. (3D) No.5 dated 22.09.2003, wherein the Tribunal had dismissed the application observing as "the fact is that during this period, the applicant has not worked. Therefore, it can never be treated as duty period. The applicant has not challenged the order passed by the respondent treating the portion of the period from which he applied for leave as leave without allowance and leave with allowance. Any how, the period between 1994 and 1996 can never be treated as duty period...." against which the petitioner has filed Writ Petitions before this Court, which was also dismissed by an order dated 08.09.2004. Therefore, the petitioner has made several representations to regularize his leave period from 13.08.1994 to 30.08.1996. Since no orders were on his favour, he has filed the present writ petition with the aforesaid prayer.

3.Heard Mr.R.Kartikayan, learned counsel for the petitioner and Mr.K.Ravikumar, learned Additional Government Pleader for respondents 1 to 3.

4.The Learned counsel for the petitioner would submit that though eight months leave period from 25.01.1996 to 30.08.1996 was recognized as extraordinary leave without medical certificate by G.O.(3D) No.5, Information and Tourism Department dated 22.09.2003, the petitioner's request for regularizing his leave period from 13.08.1994 to 30.08.1996 was rejected on the ground that the petitioner has not worked during that period and remained absence without furnishing any details.

5.Taking into consideration the above facts and circumstances of the case, I am of the view that the impugned order is modified to the extent that the period from 25.01.1996 to 30.08.1996, which has been regularized as Extraordinary Leave without Medical Certificate under 85(b) of fundamental Rules was covered under G.O.(3D) No.5, Information and Tourism Department dated 22.09.2003. The remaining period from 13.08.1994 to 30.08.1996 shall be treated as non-duty period.

6.With the above modification, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
The State of Tamilnadu
Information and Tourism Development
Department, Fort St.George,
Chennai-600 009.

2.The Director/Commissioner of
Stationery and printing,
Anna Salai, Chennai-600 002.

3.The Special Commissioner/Commissioner,
Stationery and printing,
Anna Salai, Chennai-600 002.

+lcc to the Government Pleader, S.R.No.42281

W.P. No. 35322 of 2006

MR(CO)
CS/17/07/18