



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 6008 of 2018

M.Vijayalakshmi

... Petitioner

Vs.

1. The District Elementary Educational Officer,
Dindigul,
Dindigul District.

2. The Assistant Elementary Educational Officer,
Kujiliamparai Union,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.76/A2/2018 dated 24.01.2018 based upon the proceedings of the 1st respondent in Na.Ka.No.1810/A4/05 dated 29.05.2005 and the consequential entry dated 04.07.2005 made by the 2nd respondent in the Service Register of the petitioner and quash the same and consequently direct the respondents to disburse the petitioner's salary at the applicable scale for the period between 01.09.2004 till 15.09.2004 and 16.09.2004 to 17.02.2005 within the time frame stipulated by this Court.

For Petitioner : Mr.G.Mohankumar

For Respondents : Mrs.Srimathy,
Special Government Pleader

ORDER

The petitioner is working as Head Mistress. She was promoted and transferred from Ellaipattipudur to Dhatha Nayakanur, by order dated 13.09.2004. The petitioner joined in the transferred place. Thereafter, she was re-transferred to the original place. This was questioned by her by filing a writ petition and an order of interim stay was also granted in her favour. But, the order of interim stay was not complied with. The petitioner was literally stranded and therefore, left with no other option, she withdrew



the writ petition and joined in the original place, as per the order dated 17.02.2005. The question that arises is as to how the unserved period of 155 days, has to be treated. One part of the said period of 155 days has been treated as Earned Leave and another part as half salary basis. This order is under challenge in this writ petition.

2. This Court is of the view that the entire period of 155 days should be treated as one of "On Duty" (OD) for all purposes. This was because, an order of interim stay was granted by this Court in her favour and the petitioner was ready and willing to report for duty and work. It was the Department, which did not permit her to join duty. Therefore for the conduct of the Department, the petitioner could not be made to suffer. If the order impugned in the writ petition is sustained, it would amount to permitting the authorities to take advantage of their own wrong. Therefore, the order impugned in the writ petition is quashed. The respondents are directed to treat the entire period of 155 days as "On Duty" (OD) for all purposes and disburse the salary at the applicable scale, within a period of eight weeks from the date of receipt of a copy of this order.

3. With the above directions, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Dindigul, Dindigul District.
2. The Assistant Elementary Educational Officer,
Kujiliamparai Union, Dindigul District.

+ 1 cc TO Mr.G.Mohankumar , Advocate in SR No. 57216
+ 1 cc TO The Special Government Pleader in SR No. 57670

gk

AE/SV MMS/SAR1/02.05.2018/2P/5C

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