



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

WEB COPY

W.P. (MD) No.5985 of 2014

A.Rajendrakumar

... Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondents to regularize the period of petitioner's leave from duty from 13.07.2011 to 12.02.2012 as a period spent on medical Leave of the petitioner with all consequential benefits thereon within time stipulated by this Court.

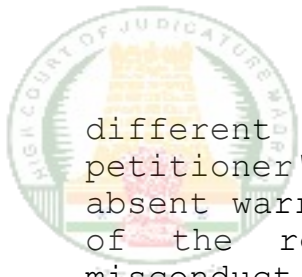
For Petitioner : Mr.J.Lawrance

For Respondents : Mr.A.Jayaram

ORDER

The above writ petition has been filed to direct the respondents to regularize the period of petitioner's leave from duty from 13.07.2011 to 12.02.2012 as a period spent on medical of the petitioner with all consequential benefits thereon within time stipulated by this Court.

2.The petitioner was employed as a Permanent Clerk in the 2nd respondent corporation at Dindigul. The petitioner was transferred from original office to Branch III, Dindigul. Under these circumstances, the petitioner made representations to the respondents to retain him back in the original office at Dindigul. Incidentally, the petitioner fell ill at the time when the transfer order was served him. The petitioner therefore remained absent between 13.07.2011 and 12.02.2012. The petitioner later reported duty at Branch III Dindigul of the respondent office.



different charge memos for each of the months by treating the petitioner's absence during the aforesaid period as unauthorised absent warranting punishment under 16(2) of Certified Standing Order of the respondent Corporation. The said clause deals with misconduct. The petitioner was found guilty after enquiry and was awarded a punishment of stoppage of increment for one year without cumulative effect.

4. Aggrieved by the order of the 2nd respondent, the petitioner raised an Industrial Dispute before the Assistant Commissioner of Labour, Dindigul under Section 2(r) of I.D.Act. 1947. In the course of the conciliation proceedings, the respondents agreed to drop the charges framed against the petitioner by letter dated 21.06.2013, which was communicated to the Assistant Commissioner of Labour, Dindigul.

5. After the said order was communicated, the petitioner has sent several representations to the respondents with a request to treat the period of absence as his eligible medical leave. However, his representations have not evoked any response. Under these circumstances, the petitioner filed this present writ petition for the above relief to direct the respondents to regularise the period of petitioners leave from 13.07.2011 to 12.02.2012 as period spent on medical leave with consequential benefits.

6. The learned counsel appearing for the respondents have filed counter, wherein, they have submitted that the petitioner involved in illegal strikes and therefore no benefits can be given to the petitioner based on the principle of "No Work, No Pay."

7. Per contra, the learned counsel for the petitioner submits that the petitioner had undergone Angio surgery on 07.04.2009 at Meenakshi Mission Hospital at Madurai and therefore, he was unable to report duty.

8. Be that as it may, the respondents have withdrawn the charge and have dropped the punishment against the petitioner by their letter dated 19.06.2014. Therefore, the petitioner cannot be denied the benefits that are available to him as per the norms. Had the department continued the proceedings under the I.D.Act., the denial of the benefits of the petitioner would have been justified. However, as the punishment has been withdrawn, I am inclined to allow the writ petition.

9. Accordingly, the writ petition is allowed as prayed for. No costs.

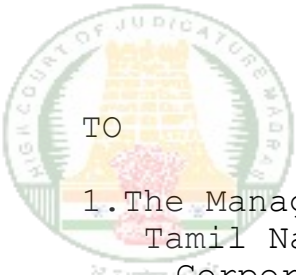
Sd/-

Assistant Registrar(P&A)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar(CS-II)



TO

1.The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul.

+1cc to Mr.J.Lawrance Advocate in SR.No.98179

+1cc to Mr.A.Jayaram Advocate in SR.No.98150

W.P. (MD) No.5985 of 2014
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