



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.19444 of 2017
and
WMP (MD) No.15740 of 2017

R.Karthik

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Department of Hindu Religious and
Charitable Endowments,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

2.The Commissioner,
The Commissioner Office,
Department of Hindu Religious and
Charitable Endowments,
Chennai - 34.

3.The Joint Commissioner,
Office of the Joint Commissioner,
Department of Hind Religious and
Charitable Endowments,
Thiruvanandhapuram Road,
Palayamkottai, Tirunelveli-2,
Tirunelveli District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the second respondent to accept the resignation of the petitioner from the post of Executive Officer at Arulmigu Kallapiran Swamy Thirukovil, Thiruvaikundam Taluk, Thoothukudi District as per Section 50(3) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.J.Gunaseelan Muthaiah,
Addl. Govt. Pleader

O R D E R

The writ petitioner joined service as Executive Officer in Hindu Religious and Charitable Endowments Department. His posting was at Arulmigu Kallapiran Swamy Thirukovil, Thiruvaikundam Taluk, Thoothukudi District in April 2016. The writ petitioner submitted his resignation on 05.08.2017 to the second respondent. Since the same was not acted upon, he filed this writ petition for directing the second respondent to accept the same.

2.The matter was posted for admission on 20.10.2017. To enable the respondents to get instructions, the matter was adjourned to 10.11.2017 and then on 06.12.2017. On 20.12.2017, the learned Additional Government Pleader appearing for the respondents furnished a copy of the communication dated 20.12.2017 issued by the second respondent advising the writ petitioner to apply afresh through proper channel.

3.The reason for taking such a stand appears that the writ petitioner had not expressed the word "Resignation" in his letter dated 05.08.2017. The stand of the second respondent appears to be too technical in nature. The second respondent had received the writ petitioner's letter dated 05.08.2017 in which he had referred to his domestic condition and wanted to be relieved. Though, the writ petitioner had not employed the word "Resignation" nevertheless, it is clear that the writ petitioner actually wanted to quit.

4.The writ petitioner had filed the present writ petition in the second week of October 2017 and the prayer in the writ petition is that the authorities must be directed to accept his resignation from the post of Executive Officer. Therefore, the second respondent should have been taken a decision either to accept or not accept the request made by the writ petitioner. Instead, the second respondent has taken the stand that the letter dated 05.08.2017 cannot be considered. This is because, it does not bear the word "Resignation".

5.The learned counsel appearing for the writ petitioner would place reliance on Section 50(3) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. The said provision states that the Government servant may resign by giving notice of not less than three months in writing direct to the appointing authority. It is open to the Government servant to withdraw the notice of his resignation before its acceptance. The appointing authority has to issue orders on the notice of resignation before the date of expiry of notice, either accepting the resignation from a date not later than the date of expiry of the notice of resignation giving reason therefor. If no such order is passed, the



resignation is deemed to have been accepted on the expiry of the period of notice.

6. In this case, the writ petitioner's notice was submitted on 05.08.2017. The three months period expired on 05.11.2017. The writ petition was filed in the second week of October 2017 itself. The respondents were put on notice by 10.10.2017 itself. The second respondent must be imposed with the knowledge that the writ petitioner wanted to resign from his post. The letter dated 05.08.2017 cannot be read need in isolation. The approach of the second respondent betrays non application of mind. The second respondent failed to pass an order on the writ petitioner's notice before the period of three months. If the appointing authority did not issue orders on the notice of resignation before the date of expiry of notice, the resignation shall be deemed to have been accepted. The statutory mandate is clear. Therefore, in view of the Section 50(3) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the writ petition has to be allowed.

7. This writ petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu,
Department of Hindu Religious and
Charitable Endowments,
No.119, Uthamar Gandhi Salai,
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 2. The Commissioner,
The Commissioner Office,
Department of Hindu Religious and
Charitable Endowments, Chennai - 34.
 3. The Joint Commissioner,
Office of the Joint Commissioner,
Department of Hind Religious and
Charitable Endowments,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli-2, Tirunelveli District.
- +One cc to The Special Government Pleader, SR.No.42274
+One cc to M/s.T.Lajapathi Roy, Advocate, SR.No.41569
skm
RL/6C/3P/SKN/RSK/SAR1/24/1/2018

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