



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5210 of 2013

WEB COPY

S.S.Porchezgian

... Petitioner

-vs-

1.The Engineer in Chief cum Chief Engineer (General),
Public Works Department,
Chepauk, Chennai.

2.Assistant Executive Engineer,
Water Resources Organization,
Chittar Basin Sub Division,
Thenkasi.

3.Executive Engineer,
Water Resources Organization
Chittar Basin Division,
Thenkasi.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents and more particularly of the 3rd respondent pertaining to the Executive Order No.T1/728/2012/NP.3A dated 29.11.2012 passed by the 3rd respondent in so far as related to the leave granted to the petitioner and quashing the same as being illegal, arbitrary, extraneous and not in accordance with law and further directing the respondents and more particularly the 3rd respondent to grant salary and allowances as applicable for the period from 01.06.2012 to 04.06.2012 (both days inclusive) by taking into account the duty and field inspections served by the petitioner and to grant casual leave for the period from 05.06.2012 to 10.06.2012 (both days inclusive) and earned leave for the period from 11.06.2012 to 04.07.2012 (both days included) to the petitioner with appropriate permission leave as applied for by him.

For Petitioner	: Mr.Jayaram for Chettinad Legal Solution
For Respondents	: Mrs.V.P.M.Vaishnavi, Government Advocate.

O R D E R

The relief sought for in this Writ Petition is to quash the order dated 29.11.2012 for regularizing the leave period of the writ petitioner and further direction is sought for to grant salary and allowances as applicable for the period from 01.06.2012 to 04.06.2012.



2.The learned counsel appearing on behalf of the writ petitioner strenuously contented that the leave period ought to have been regulated as casual leave as per the rules. However, the respondents treated the leave period as earned leave and did not grant salary to that particular period. Thus, the petitioner constrains to move the present Writ Petition.

3.The learned Government Advocate appearing on behalf of the respondents submitted that the writ petitioner is not eligible for casual leave for the said period ie., from 01.06.2012 to 04.06.2012 since he was absented himself from duty and he did not properly intimate his absence from 01.06.2012 to 10.06.2012. Hence, the leave period cannot be regulated as casual leave. This apart, during the said period, the petitioner did not entitle to any travelling allowance as claimed by the writ petitioner.

4.The learned counsel appearing on behalf of the writ petitioner submitted that even though he was issued with the order of transfer, no travelling allowance has been paid to the petitioner in accordance with the rules. However, this Court is of an opinion that regularisation of leave period cannot be directed to be issued in a particular manner by this Court under Article 226 of the Constitution of India. The leave availed by the employees are all to be regularized in accordance with the leave rules in force. In the present case, the respondents filed counter affidavit, stating that the writ petitioner is not eligible for casual leave for the relevant period on account of the fact that he remained absent from duty and did not provide proper intimation for his absence more specifically from 01.06.2012 to 10.06.2012.

5.The learned counsel appearing on behalf of the writ petitioner submitted that the writ petitioner has sent intimation through courier. However, this Court cannot take all these aspects at this point of time in this Writ Petition. It is for the authorities to consider all these aspects and take a decision and in fact the decision is already taken in respect of regulating the period of leave as earned leave.

6.This being the factum, this Court is not inclined to consider the case of the writ petitioner for treating the leave as casual leave and therefore, this Writ Petition is dismissed as devoid of merits. No costs.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To

1.The Engineer in Chief cum Chief Engineer (General),
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Water Resources Organization
Chittar Basin Division,
Thenkasi.

+1cc to M/s.Special Government Pleader,SR.No. 51345

W.P. (MD) No.5210 of 2013
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KK/JC/03.04.2018/SAR-4/3P-5C