

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20888 of 2019
and
W.M.P. No.20090 of 2019

S.Muthukumarasamy

... Petitioner

Vs.

The Commissioner of Social Welfare
Panagal Building,
Saidapet,
Chennai - 600 015.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus by calling for the records relating to the suspension orders of the Respondent herein in Proceedings Na.Ka.15326/Admn5(3)/2019, dated 18.06.2019 and quash the same and consequently confer all the attendant benefits.

For Petitioner : Mr.R.S. Anandan

For Respondent : Mr.R.S. Selvam
Government Advocate

O R D E R

This writ petition has been filed by the petitioner, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the suspension orders of the Respondent herein in Proceedings Na.Ka.15326/Admn5(3)/2019, dated 18.06.2019 and quash the same and consequently confer all the attendant benefits.

2. According to the petitioner he joined a service in the Department of Social Welfare as Steno - Typist on 19.02.1988. Thereafter, he was posted as Supervisor transfer to Women Tailoring and Service Industrial Co-operative Society, Vellore District vide proceedings dated 27.04.2018 of the respondent herein. Whiles, the petitioner suffered ailment of cervical

mylopathy leading to Locomotor disability during the course of his duty. Therefore, he applied medical leave initially for a period of 58 days from 21.12.2018 and subsequently extended till 16.04.2019. According to the petitioner, he was issued with a disability certificate, certifying disability at 60% Locomotor disability. It appears that, after lapse of nearly 171 days of medical leave, the petitioner was issued with the Impugned Charge Memo dated 18.06.2019 urging that he had not joined duty on deputation in the office of the respondent and thereby he violated Tamil Nadu Government Servant Conduct Rules 1973 and he was also placed under suspension. Challenging the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would contend that the petitioner has applied a medical leave after appearing before the Medical Board and without there being fitness certificate, and as the petitioner suffered 60% disability, he could not join duty at the transferred place at Chennai all along travelling from Vellore. The learned counsel also contend that the petitioner due to his health ailments he applied for medical leave and has not committed any misconduct, warranting disciplinary action that too by placing him under suspension. Therefore, the impugned order is untenable and cannot be countenanced in law. Therefore, the learned counsel would urge this Court to set aside the impugned order. He also submitted that the till date no enquiry has been conducted nor the petitioner was given posting to join duty.

4. The learned Government Advocate would submit that disciplinary proceedings were initiated against the petitioner, since, he did not obey the transfer order and did not join duty at the transferred place. He would also submit that pending enquiry, the impugned proceedings cannot be interfered with, however, the petitioner can make representation to the respondent seeking revocation of the suspension order and the same will be considered by the respondent.

5. Heard the learned counsel for the petitioner and learned Government Advocate for the respondent and perused materials placed on record.

6. This Court, while ordering notice to the respondent, has granted interim stay of the impugned proceedings, vide order dated 20.08.2019. It appears that, since the petitioner has not obeyed the transfer order, he was issued with disciplinary proceedings and he was also placed under suspension. It is the case of the petitioner, that he suffered 60% Locomotor Disability and he applied for medical leave and he was transferred from Vellore to Chennai and hence he could not join

duty at Chennai. It appears that, after the impugned proceedings, no enquiry has been conducted. The disciplinary proceedings were issued not for any mis-conduct committed by the petitioner, but, for non-joining of duty at the transferred place. Therefore, this Court is of the view that the respondent can consider the issue of revocation of suspension.

7. In view of the above, the petitioner is directed to make representation to the respondent, seeking for revocation of the suspension within a period of two weeks from the date of receipt of copy of this order. On such representation being made by the petitioner, the respondent shall consider the same and pass appropriate orders therein within a period of two weeks thereafter. The respondent is also directed to proceed with the enquiry and complete the same within a period of twelve weeks thereafter. The petitioner is entitled to all the relevant document pertaining to the enquiry and the same shall be furnished by the respondent.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CJ conf)

//True Copy//

Sub Assistant Registrar

ebsi
To
The Commissioner of Social Welfare,
Panagal Building,
Saidapet,
Chennai - 600 015.

+1cc to the Government Pleader SR.82331

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and
W.M.P. No. 20090 of 2019

LN(CO)
CB(05/11/2019)