



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).Nos.3736 to 3738 of 2011
and M.P.(MD).Nos.1, 1 and 1 of 2011

W.P.(MD).No.3736 of 2010

S.Muthu Kumaran

.. Petitioner

Vs.

1.The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.

2.The District Library Officer,
Theni District,
Theni 625 531.

3.N.Kesavan,
The District Library Officer,
Theni District,
Theni 625 531.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 2nd respondent in Ref.N.K.No.2495/A1/2010-1, dated 10.01.2011, quash the same and consequently direct the 2nd respondent herein to treat the leave of the petitioner from 30.07.2016 as Earned Leave for a period of 24 days and the remaining period till date of joining the service as duty as per order in W.P.No.10788 of 2010 on the file of this Court, dated 06.09.2010 within a reasonable time.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.Mr.Jeyaraman for R1 & R2
Additional Government Pleader

W.P.(MD).No.3737 of 2010

<https://hcservices.ecourts.gov.in/hcservices/> S.Thirumalai Kumarasamy

.. Petitioner



Vs.

1.The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.

2.K.Arivoli,
The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.

3.The District Library Officer,
Theni District,
Theni 625 531.

4.N.Kesavan,
The District Library Officer,
Theni District,
Theni 625 531.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent in Ref.N.K.No.2495/A1/2010-1, dated 10.01.2011, quash the same and consequently direct the 3rd respondent herein to treat the leave of the petitioner from 30.07.2010 to 22.08.2010 as Earned Leave and regularize the remaining period of absence till date of joining the service as duty as per order in W.P.No.10788 of 2010 on the file of this Court, dated 06.09.2010 within a reasonable time.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.Mr.Jeyaraman for R1 & R2
Additional Government Pleader

W.P. (MD).No.3738 of 2010

R.Uma Devi .. Petitioner

Vs.

1.The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.

2.K.Arivoli,
The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.



3.The District Library Officer,
Theni District,
Theni 625 531.

4.N.Kesavan,
The District Library Officer,
Theni District,
Theni 625 531.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 3rd respondent in Ref.N.K.No.2495/A1/2010-1, dated 10.01.2011, quash the same and consequently direct the 3rd respondent herein to treat the leave of the petitioner from 30.07.2010 to 22.08.2010 as Earned Leave and regularize the remaining period of absence till date of joining the service as duty as per order in W.P.No.10788 of 2010 on the file of this Court, dated 06.09.2010 within a reasonable time.

For Petitioner : Mr.K.Appadurai

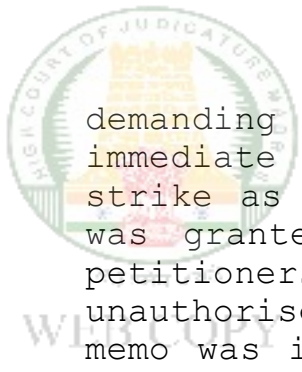
For Respondents : Mr.Mr.Jeyaraman for R1 & R2
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed for issuing a writ of Certiorarified Mandamus to quash the order of second respondent, dated 10.01.2011 served on petitioners individually and consequently to direct the second respondent to treat their leave period as Earned Leave respectively and regularize their absence of duty till they joined duty.

2.For convenience, the parties are referred to as per the rank in the W.P.(MD).No.3736 of 2011.

3.The petitioners in all three writ petitions joined in the Library Service in their respective posts. It is represented that staff members of all Libraries appears to have formed an Association for the welfare of Staffs and smooth running of the Libraries. The petitioners in these writ petitions were also parties to the representation submitted to the Government regarding the grievance of the Staffs in the Library Department. The representation stated to have been submitted by the petitioners appears to be an intimation regarding the hunger strike proposed by the Staffs of Library Department. All these petitioners did not report duty probably in view of their participation in the strike organized by the Association. It is admitted that all the petitioners did not report from 30.07.2010,

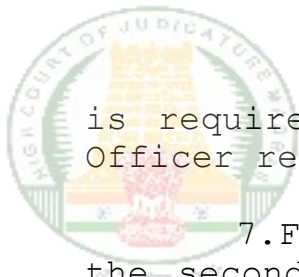


demanding their Superior Officers to take action against the immediate Officers of petitioners and participated in the hunger strike as mentioned in the representation. Even though no leave was granted to any of the petitioners, it is stated that the petitioners did not report duty for some time. Later, for unauthorised absence for participating in the strike, a charge memo was issued to the petitioners on various grounds under Rule 17 A of Tamil Nadu Civil Services Discipline and Appeal Rules. After getting the explanation from the petitioners, orders were passed imposing punishment of stoppage of increment without cumulative effect for three years. It is not in dispute that a show cause notice was issued to the petitioners before proceeding further. Despite sufficient opportunity being given to the petitioners no reply or explanation was offered by the petitioners. The respondents therefore, stated in the counter affidavit that the second respondent has no other option, but to proceed further and then to impose a punishment. Though it is admitted that an appeal remedy is also available, the above writ petitions were filed mainly on the ground that the reasoning of the second respondent in the impugned order is false and that the petitioner who has submitted leave application cannot be found guilty of unauthorised absence.

4.The second respondent filed a detailed counter affidavit narrating the whole incident that resulted in the punishment of stoppage of increment for a period of three years. The learned counsel appearing for the petitioner submitted that the order of punishment suffers from malafides as the respondent has passed the order of punishment which is suppressive in nature. It is further stated that the Tamil Nadu Civil Service Discipline and Appeal Rules have no application to the petitioners. The learned counsel then submitted that non consideration of the explanation offered by the petitioners would vitiate the impugned order of second respondent. It is also contended by the learned counsel for the petitioner that the second respondent ought to have treated the leave of the petitioner not as unauthorised, as the petitioners has submitted the leave application.

5.This court considered the submissions of learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6.From the facts admitted, it appears that the petitioners have absented themselves from work. It is admitted that the participation of petitioners in the strike is a serious misconduct. When the delinquency is established, the only question that arise for consideration is the issue whether the petitioner is justified in absenting from work. The charge itself was framed for imposing minor punishment and therefore no enquiry



is required. In the present case, the findings of the Enquiry Officer regarding proof of charges are unassailable.

7.From the reading of the order impugned, it is seen that the second respondent has carefully considered facts and events. The petitioners who are holding a post relating to public service/utility cannot ignore their responsibilities. The petitioners were not willing to join duty for reasons disclosed in their strike notice. Though a major punishment ought to have been imposed, showing lenience, the second respondent has imposed a punishment of stoppage of increment for a period of three years without cumulative effect. This Court is unable to see any valid reason to interfere with the findings or the reasonings in the order of the second respondent.

8.As a result, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Director of Public Libraries,
Office of the Directorate of Public Libraries,
Chennai.

2.The District Library Officer,
Theni District,
Theni 625 531.

+3 CC to M/s.K.APPADURAI, Advocate (SR-96024[F] dated
05/11/2019)

+1 CC to M/s.SPL GP (SR-96324[F] dated 06/11/2019)

W.P. (MD) .Nos.3736 to 3738 of 2011

04.11.2019

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