



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2019

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.9691 of 2014

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Petitioner

Vs

1. The Tamil Nadu State Transport
Corporation (Madurai) Ltd
Rep by its General Manager
Virudhunagar Region
Virudhunagar

2. The Branch Manager
The Tamil Nadu State Transport
Corporation (Madurai) Ltd
Aruppukkottai Branch
Aruppukkottai
Virudhunagar Distrit

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, or any other appropriate Writ order or direction in the nature of writ calling for the records pertaining to the impugned order passed by the first respondent in Tha.A.Po.Ka:Virudhu:Nir:A3:MaVi12:2014 dated 26.04.2014, quash the same and consequently direct the respondents to grant medical leave to the petitioner with wages for the period from 18.04.2014 to 30.04.2014 and pass such other orders.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.J.Senthil Kumaraiah

O R D E R

The Writ Petitioner seeks Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 26.04.2014 passed by the first respondent in Tha.A.Po.Ka:Virudhu:Nir:A3:MaVi12:2014, quash the same and consequently direct the respondents to grant medical leave to the petitioner with wages for the period from 18.04.2014 to 30.04.2014.

2. The brief facts that lead to the filing of the Writ petition are as follows:-

2.1. The petitioner was working as Driver under the Tamil Nadu State Transport Corporation (Madurai) Ltd, Aruppukkottai Branch and he is having 19 years of experience. On 17.04.2014, due to severe stomach pain, the petitioner got admitted in the hospital



for treatment. Hence, he had sent a leave letter to the second respondent on 17.04.2014 requesting medical leave from 18.04.2014 to 30.04.2014 along with Medical Certificate through registered post. In the meantime, he had also sent the communication through fax. Further the petitioner sent a representation to the second respondent on 19.04.2014. The leave letter with medical certificate sent by the petitioner in all modes have been duly received by the second respondent.

2.2. On 01.05.2014, the petitioner joined duty after producing physical fitness certificate to the second respondent. Despite the same, the medical leave availed by the petitioner was marked as 'absented from duty' by the second respondent and he was denied wages for the relevant period. (18.04.2014 to 30.04.2014). The petitioner has 96 days of medical leave, 40.5 days of earned leave and 9 days of casual leave to his credit.

2.3. The petitioner has submitted his representations dated 02.05.2014 and 20.05.2014 to the first respondent, against which, the first respondent has passed an order dated 26.04.2014 rejecting the request of the petitioner on the ground that the petitioner ought to have submitted his leave letter only in person and not by post. Aggrieved over the same, the petitioner has preferred this Writ Petition.

3. I have heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.J.Senthil Kumaraiah, learned counsel for the respondents.

4. The learned counsel for the petitioner would submit that though the petitioner has 96 days of medical leave, 40.5 days of earned leave and 9 days of casual leave to his credit, the denial of medical leave by the respondent is not at all sustainable.

5. Per contra, the learned counsel for the respondent submitted that the petitioner has sent the leave letter along with medical certificate through post, instead of submitting the same in person before the concerned officer.

6. The only issue to be decided in this matter is whether the petitioner is having sufficient leave in his credit or not. It is crystal clear from the petitioner's affidavit that he has 96 days of medical leave, 40.5 days of earned leave and 9 days of casual leave to his credit. In this regard, there is no denial on the side of the respondents. Moreover, the above issue has been settled by this Court in its order dated 21.01.2019 in WP(MD) No.24437 of 2018. The relevant portion of the order is extracted below:-

5. The leave application along with medical certificate was sent to third respondent by post. The third respondent has refused to receive the same. Therefore, the third respondent cannot claim that he had knowledge of the contents of the cover, which he had



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admittedly refused to receive. The third respondent claims that the petitioner has sought medical leave in order to avoid disciplinary action. The third respondent would also submit that the petitioner having stayed within two kilometers from the depot could have come in person and made an application or he would have contacted him over phone and informed him about the medical condition and sought for medical leave.

6. The mode, through which leave has to be sought for by the employees is not prescribed in the rules. The petitioner has adopted a recognized mode viz., the petitioner had requested for medical leave in writing along with the medical certificate by registered post. The third respondent had refused to receive the same. Though the third respondent would claim that he was away from the depot on the said date, the same cannot be accepted as reasonable explanation for refusing to receive the letter. If, the third respondent was not available in his office, some other person available could have received the letter addressed to the Branch Manager, TNSSTC and not to an individual.

7. The above order is squarely applicable to the present case and therefore, the impugned order dated 26.04.2014 is set aside and the first respondent is directed to grant medical leave with wages to the petitioner for the period from 18.04.2014 to 30.04.2014 and the said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(Records)

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Sub Assistant Registrar(CS)

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+1 CC to M/s.M/S.A.RAHUL, Advocate (SR-105179[F]**+1 CC to M/s.J.SENTHI KUMARAIAH, Advocate (SR-105712[F]****W.P. (MD) No.9691 of 2014****16.12.2019**

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