

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34250 of 2007

and

WMP No.2 of 2007

S. Anbazagan

...Petitioner

Vs.

1. The Director,
Adi Dravidar Welfare Department,
Ezhilagam, Chennai - 600 005.
2. The District Adi Dravidar & Tribal Welfare Officer,
Tribal Welfare Officer,
Collectorate, Dharmapuri.

...Respondents

Prayer: Writ Petition filed praying to issue Writ of Certiorarified Mandamus or any other writ or order or direction in the nature of writ calling for the records relating to Na.Ka.No.03/41336/2002 dated 12.06.2007 impugned order passed by the 1st respondent herein and quash the same and direct the 1st Respondent to pay legitimate claim of the petitioner in respect of monetary benefits for the period from 04.06.2005 to 30.08.2006 comes to a total sum of Rs.3,06,349/- with interest.

For Petitioner : Mr. S. Saravana Kumar

For Respondents 1&2 : Mr.K. Magesh

(Spl. Government Pleader)

O R D E R

This Writ petition has been filed praying to issue writ of Certiorarified Mandamus calling for the records relating to impugned order in Na.Ka.No.03/41336/2002 dated 12.06.2007 passed by the 1st respondent to pay legitimate claim of the petitioner in respect of monetary benefits for the period from 04.06.2005 to 30.08.2006 comes to a total sum of Rs.3,06,349/- with interest.

2. The facts of the case are as follows:

The petitioner was working as a Head Master cum Warden in the Adi Dravida Middle School at Dharmapuri in the year 2005. On the basis of report of allegation sent by the 2nd respondent, the petitioner was transferred to Adi Dravida Middle School, Salem, in the reverted post of B.T. Assistant by impugned order

dated 30.05.2005 of the 1st respondent in R.O.C. No.(01) 41336/2002. Though the petitioner was relieved from Dharmapuri District on 03.06.2005 in the after noon as per the aforesaid order, the petitioner did not join in Adi Dravida Middle School located at Salem District in the cadre of B.T. Assistant till 30.08.2008. Further, the petitioner had joined duty as B.T. Assistant of Adi Dravida Middle School Thekkampattu, Salem District, only on 31.08.2008. In the mean while, an enquiry was conducted and in the enquiry it was found that the charges levelled against the petitioner were not substantiated and thereby he was reposted as Headmaster cum Warden in the Adi Dravida Middle School at Dharmapuri. However, the petitioner was not given monetary benefit for the absence period from 04.06.2005 to 30.08.2006 as per the Government policy that no work and no pay for the non duty period of the petitioner. Being aggrieved, the petitioner has filed the present writ petition seeking for a direction to pay monetary benefits to the petitioner for non-joining period. ie. from 04.06.2005 to 30.08.2006 by quashing the impugned order passed by the 1st respondent herein.

3. The learned counsel for the petitioner would submit that since the petitioner was foisted with false allegations, he did not join in the reverted post at Salem, after relieving him from Dharmapuri District. At the same time, the petitioner was busy in the marriage arrangements of his daughter during the absence period and in giving petition to conduct enquiry on the allegation to his higher authorities. Further, as the petitioner has been exonerated of all charges after enquiry, the absence period can be treated as being in service. Therefore, the question of treating the absence period of 04.06.2005 to 30.08.2006 as personal leave period without monetary benefits is unsustainable and also depriving the legitimate claim of the petitioner. Hence, the petitioner is liable to get monetary benefits for the absence period and the impugned order passed by the 1st respondent is liable to be quashed.

4. On the other hand, the learned special Government pleader appearing for the respondents, by filing a detailed counter affidavit, would submit that the petitioner ought to have been joined duty forthwith at Salem District after getting relieving order from Dharmapuri District on 03.06.2005 in the after noon whether the petitioner is guilty or not. But, the petitioner had joined duty only on 31.08.2006 on his own accord after a long period without getting any permission from the concerned authorities. Therefore, it cannot be treated as being in service and has to be considered as non-duty period as per the instruction of the Government. There is general rule to regulate the non-joining period as non-duty period and the directions of the 1st respondent are maintainable according to

rules and regulations in force on the policy of the Government that no work no pay for the long absence period from 04.06.2005 to 30.08.2006. Hence, the claim of the petitioner cannot be entertained since he did not join the duty at Salem as per the order passed by the 1st respondent and joined duty after taking long period on his own accord and on that basis, the writ petition is liable to be dismissed.

5. Heard both sides and perused the records.

6. Admittedly, the petitioner was working as a Head Master cum Warden in Adi Dravida Middle School at Dharmapuri. On the basis of report of allegation sent by the 2nd respondent, the petitioner was transferred to Adi Dravida Middle School, Salem, in the cadre of B.T. Assistant by impugned order dated 30.05.2005 of the 1st respondent in R.O.C. No.(01) 41336/2002. Even though the petitioner was relieved on 03.06.2005, from Dharmapuri District, he did not join duty at Salem till 30.08.2006. The reason for not joining in the School at Salem has been stated that the petitioner was in busy in the marriage arrangement of his daughter and he is not guilty as reported by the 2nd respondent. The aforesaid reason is not acceptable and genuine for not joining in the transferred School. Further, the petitioner had joined the School on his own accord after a long period without any intimation to the authorities concerned. In the absence period, the Students who were studying in the school, may have been affected without their master/instructor and their studies could have been spoiled. The teachers are being appointed in the Adi Dravida School by the Government for the development of the students who are hailing from downtrodden families. Considering the future of the Students studying in the School, the petitioner who was working as Headmaster, should have joined the transferred School at Salem after being relieved from Dharmapuri. But, the petitioner failed to do so and joined duty after taking a long period without considering the interest of the students. Hence, the petitioner does not deserve for relief sought for in the Writ petition and this Court is not inclined to quash the order passed by the 1st respondent herein since there is no merit in the writ petition and the same is liable to be dismissed.

7. In the result, the writ petition is dismissed. Consequently, connected miscellaneous petition is closed if any. No costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To:

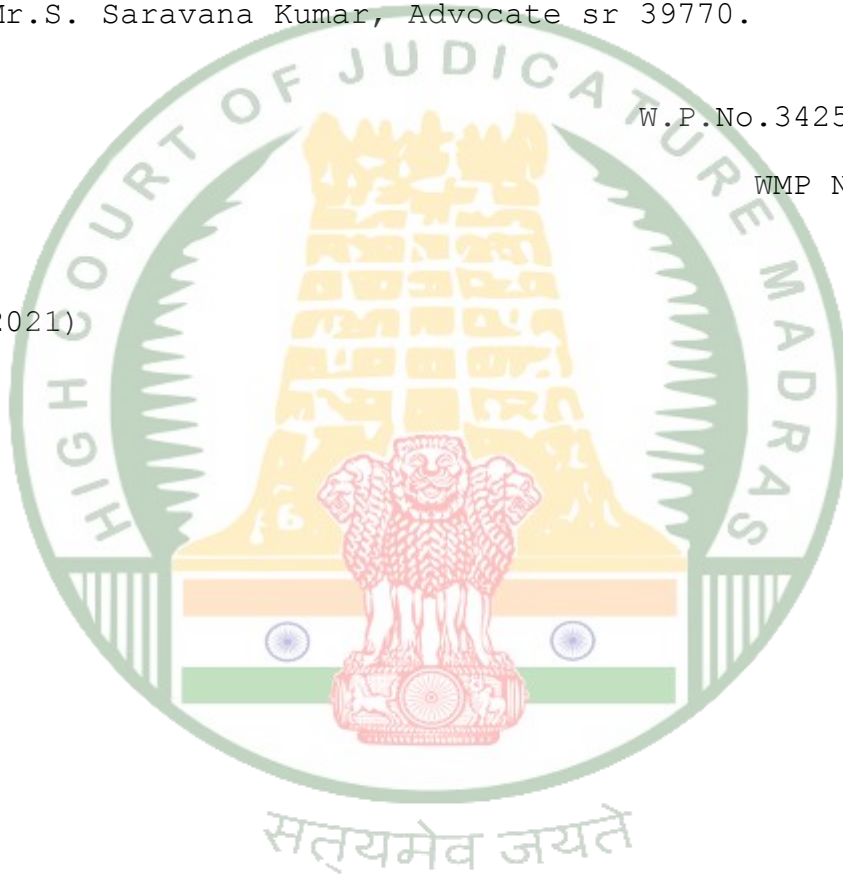
1. The Director,
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2. The District Adi Dravidar & Tribal Welfare Officer,
Tribal Welfare Officer,
Collectorate, Dharmapuri.

+1 CC to The Government Pleader sr 39831.

+1 CC to Mr.S. Saravana Kumar, Advocate sr 39770.

W.P.No.34250 of 2007
and
WMP No.2 of 2007

PA(CO)
SP(03/02/2021)



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