

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.36479 of 2004

K. Sadanandan

...Petitioner

Vs

1. The Collector,
Vellore, Vellore District.
2. The Commissioner,
Pernampattu Panchayat Union,
Pernampattu, Vellore District.

...Respondents

Prayer: Writ Petition filed praying to issue an appropriate Order, Directions or Writ including a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Na.Ka.No.PG-1/381/04 dated 13.09.2004 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : P. Mohanraj

For Respondents 1to4: Mr.K. Magesh

(Special Government Pleader)

O R D E R

This Writ Petition has been filed praying to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Na.Ka.No.PG-1/381/04 dated 13.09.2004 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

2. The facts of the case are as follows:

The petitioner was working as Noon Meal Organiser at the Panchayat Union Elementary School, Pernampet, Vellore District. On account of illness and personal reasons, the petitioner applied for medical leave for one month from 29.09.2003 to 22.10.2003. The 2nd respondent sent a Memo in Na.Ka.No.A6/4404/2003 dated 18.11.2003 stating that the medical certificate sent along with leave application had been issued by a private medical practitioner and therefore, the petitioner's

leave was refused and he was directed to join duty immediately. Since the petitioner was not at home, he was not aware of the aforesaid communication. His wife had submitted a petition to the Collector, Vellore on 01.03.2004 stating that the petitioner left home on 29.09.2003 and not returned and requested not to terminate his services. The Collector, vide order dated 09.03.2004 informed petitioner's wife that her request would be considered as per Government Rules. On 12.07.2004, the petitioner returned and requested for permission to join duty. However, by impugned order dated 13.09.2004 in Na.Ka.No.PG-1/381/04, the 1st respondent removed him from service. Aggrieved by the said order, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner would submit that though the petitioner submitted application along with medical certificate, the said leave was refused for the reason that it was issued by a private medical practitioner. Further, the petitioner was removed from service without serving charge memo on him and calling for explanation and conducting any enquiry against the petitioner. Thus, the principles of natural justice was not followed. Therefore, the impugned order passed is contrary to law and arbitrary. Hence, the impugned order is liable to be set aside.

4. The learned Special Government Pleader would submit that as the petitioner was working as Noon Meal Organizer, his presence was very much necessary to provide food for Children studying in the School. However, the petitioner was absent for more than 11 months continuously without any intimation to the office concerned. Further, as per the Government order in G.O. (Nilai). No.4 dated 09.01.1995, if the Children Welfare Organizer takes leave for more than six months continuously, they can be removed from service by following Tamil Nadu Civil Service (Discipline and Appeal) Rules. While the petitioner was removed from service in accordance with G.O. (Nilai). No.4 dated 09.01.1995, he has not challenged the aforesaid Government order. It has been further submitted that in the affidavit filed by petitioner, it is stated that when communication was sent by the District Collector rejecting the Medical leave application submitted by the petitioner, his wife approached the District Collector requesting him not to terminate the service of her husband since the petitioner had left home without intimation on account of family circumstances. It shows that the petitioner had deserted not only his job but also his family. Hence, the contention of the learned counsel for the petitioner is not acceptable and thereby the writ petition is liable to be dismissed.

5. Heard both sides and perused the records.

6. Admittedly, the petitioner was working as Noon Meal Organizer at the Panchayat Union Elementary School, Pernampattu, Vellore District. During his service, the petitioner was absent for more than 6 months continuously without any intimation and hence, he was removed from service as per G.O. (Nilai).No.4 dated 09.01.1995 issued by the Social Welfare and Nutritious Meals Scheme Department. It is the contention of the petitioner that he submitted application for medical leave by submitting medical certificate obtained from private medical practitioner, however it was rejected and he was terminated from his service. It is well settled law that medical leave will be granted on the ground of medical certificate issued only by the Government Doctors. However, the petitioner failed to produce the same. Hence, the District Collector has rejected his Medical leave and directed him to join duty. Further, the petitioner had left home without any intimation to his family members and also he has not attended the office concerned for more than 11 months. Therefore, the petitioner was terminated from service as per the order issued by the Social Welfare and Nutritious Meals Scheme Department in GO. Ms. No.4 dated 09.01.1995. It is very clearly stated in the said G.O. that if the Children Welfare Organisers take leave for more than 6 months continuously, they will be removed from service by following TNCS (D&A) Rules. In view of the above, the 1st respondent has not issued any show cause notice to the petitioner and no enquiry was conducted against the petitioner. Further, 1st respondent has acted in accordance with law by removing the petitioner from service since the petitioner has not attended office for more than 6 months continuously. Hence, there is no merit in the contention of the petitioner. Further, the petitioner who was working as Noon Meal Organiser, has to attend office for providing food to the Children particularly to those who are studying in the School and hailing from poor family living in the villages. The main objective of the Noon Meal Scheme is to provide adequate nutrition to economically disadvantaged children; to increase their literacy rate and also, to increase their enrollment and reduce drop-outs from schools. Under such circumstances, being the Noon Meal Organiser, the petitioner has to work with utmost devotion to help the students and to fulfil the objectives of the aforesaid Noon Meal Scheme. But the petitioner being careless, was absent from attending the duty for more than 11 months without proper intimation to the office concerned. Hence, the petitioner does not deserve the relief sought for by him. 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. No costs. Consequently connected miscellaneous petition is closed if any.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

lbm

Copy to:

1. The Collector, Vellore, Vellore District.
2. The Commissioner,
Pernampattu Panchayat Union,
Pernampattu, Vellore District.

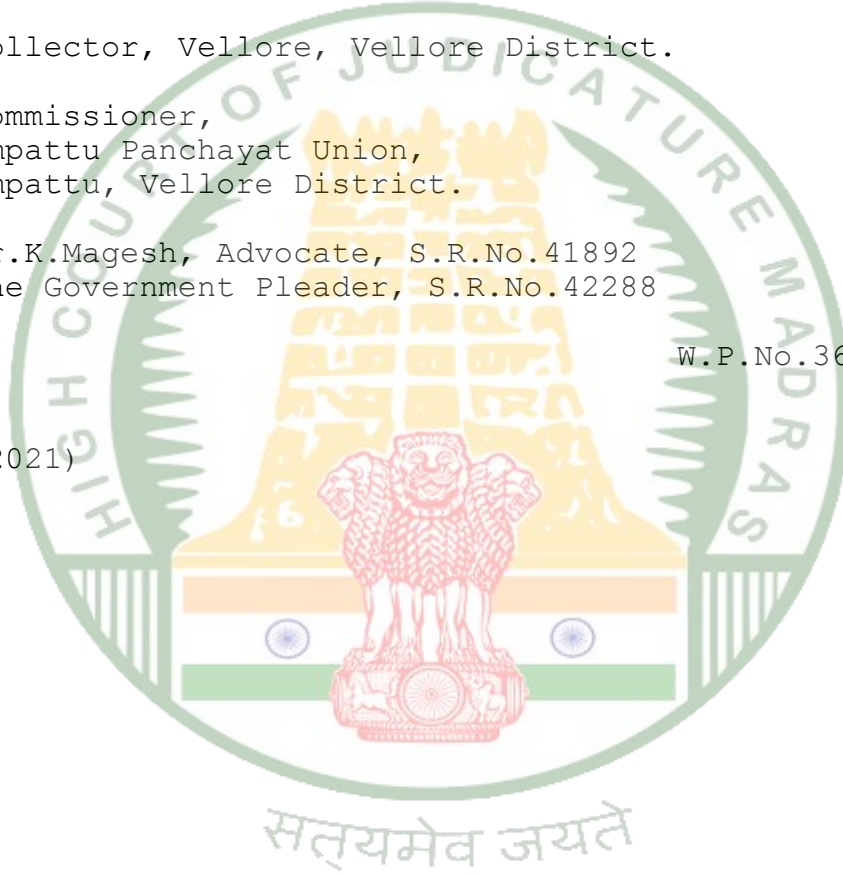
+1cc to Mr.K.Magesh, Advocate, S.R.No.41892

+1cc to the Government Pleader, S.R.No.42288

W.P.No.36479 of 2004

ajs (CO)

rv (02/02/2021)



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