

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 23048 OF 2013

A.Arokiaraj

.. Petitioner

- Vs -

1.The Director,
Sugar Research Institute,
Ammundi,
Vellore District-632519.

2.The Director /Commissioner of Sugars,
690, Anna Salai,
Nandanam,
Chennai 600 035.

3.The Special Officer,
Tirupatturcooperative Sugar Mills,
Kethampatti,
Vellore District 635 815.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus directing the 2nd respondent to sanction his medical leave encashment for the period from 21.3.2012 to 30.7.2012 and also earned leave salary from 1.8.2012 to 7.8.2012.

For Petitioner : M/S.S.V.Ramamurthy

For Respondents: Mr. A.N.Thambidurai, Spl.G.P. For R1

ORDER

This Writ petition has been filed by the petitioner, to direct the 2nd respondent to sanction his medical leave encashment for the period from 21.3.2012 to 30.7.2012 and also earned leave salary from 1.8.2012 to 7.8.2012.

2.The case of the petitioner is that he was originally appointed as a Manufacturing Chemist in the year 1978 after obtaining his B.Tech degree along with ANSI certificate, required for the post of Manufacturing Chemist. Thereafter he was appointed in various places as Chief Chemist in the year 1991. Finally the petitioner was on deputation with the second

respondent herein for the period 13.10.2009 to 20.03.2012 and he was relieved on transfer to Madurantakam Cooperative Sugar Mills. Immediately thereafter the petitioner applied for medical leave from 21.03.2012 to 07.08.2012 and the same was not sanctioned. However, subsequently, the matter was referred to the Medical Board for approval. The petitioner also prayed for earned leave on medical grounds for a period of 8 days. However the second respondent has not sanctioned the medical leave in spite of the Medical Board approval for the sanction of Medical Leave. Therefore, the petitioner made representations to the second respondent on 27.08.2012, 10.09.2012 and 15.07.2012. Till date neither reply was received nor the payment of medical leave encashment made. Hence the petitioner has filed this petition with the above said prayer.

3.Learned Counsel appearing for the petitioner submitted that though the petitioner sought for medical leave from 21.03.2012 to 07.08.2012, and requested earned leave on medical grounds for 8 days from the date of sanctioning medical leave and that the Medical Board has also approved the leave, however the 2nd respondent has not sanctioned the medical leave and earned leave, which is arbitrary and unsustainable. In spite of the representation submitted by the petitioner, the same has not been considered. Hence this Court may issue appropriate direction to the 1st respondent to consider the petitioner's representation. Accordingly he prays for allowing the writ petition.

4.Per contra, learned counsel appearing for the respondent has filed a counter affidavit and denied all the averments made by the petitioner and contented that due to the administrative reasons the petitioner was deputed to join duty at Madurantakam Co-operative Sugar Mills Ltd., as Chief Chemist. Instead of reporting to duty, the petitioner submitted application for medical leave from 20.03.2012 and finally had joined the said sugar mill on 08.08.2012. However he returned back to the 1st respondent office under order of the second respondent dated 23.08.2012 and retired from service on 31.10.2012. Since there was a delay on the part of the petitioner to resume duty at Madurantakam Co-operative Sugar Mills Ltd., as per the order of deputation dated 20.03.2012, the second respondent referred his case to the District Medical Board by proceedings dated 19.06.2012 and the Medical Board, by order dated 30.07.2012, approved the leave on medical grounds for the period from 20.03.2012 to 31.07.2012. It is the submission of the learned counsel that though the details of the leave was called for from the respondent, however, the same could not be given by the respondent for the reason that the said details ought to have been called for from Madurantakam Cooperative Sugar Mills Ltd inasmuch as, as per the orders of the second respondent dated

20.03.2012 the service of the petitioner was already deputed to that of said sugar mill. Therefore, it is only just and appropriate that the earned leave benefits for the period from 01.08.2012 to 08.08.2012 be made before an appropriate authority, namely the second respondent in as much as it is no longer open to this respondent to examine the same as his service stood deputed to the Madurantakam Cooperative Sugar Mills Ltd.,

5.This Court heard the submissions made by both sides, learned counsel and perused the materials available on record.

6.The facts in the present case are not in dispute. On perusal of the counter affidavit filed by the 1st respondent, it appears that the petitioner was deputed to Madurantakam Cooperative Sugar Mill Ltd. However, without joining at Madurantakam Cooperative Sugar Mill, the petitioner went on leave. However, his medical leave was approved by the Medical Board on reference. Since the petitioner stood deputed to Madurantakam co-operative sugar mill, it is only for the Madurantakam Co-operative Sugar Mill to consider the representation of the petitioner insofar as grant of medical and encashment of earned leave is concerned. In such view of the matter, this Court is inclined to issue a direction to the petitioner to file appropriate particulars before the 2nd respondent as well as the Mudarantakam Cooperative Sugar Mills Ltd, within a period of two weeks from the date of receipt of a copy of this order and on such particulars being furnished by the petitioner, the 2nd respondent is directed to consider the same and pass appropriate order in accordance with law within a period of 4 weeks thereafter.

7.With the above observation, this Writ Petition is disposed off. There shall be no order as to costs.

Sd/-

सत्यमेव जयते Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Director,
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Vellore District 635 815.

+1 cc to Mr.R.Gopinath, Advocate,sr.31397.

VsnII(co)
krd 2/11

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