

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31086 of 2015 and
M.P.No.1 and 2 of 2015 and
WMP No.34342 of 2016

K.Thirumurugan

...Petitioner

Vs.

1. Secretary,
Micro, Small and Medium Enterprises Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
2. Principal Secretary/Industries Commissioner and
Director of Industries and Commerce,
Mandavelipakkam, Chennai 600 028.
3. K.S.Denadayalan,
Cost and Commercial Accounts Officer/Enquiry Officer,
Office of the Director of Industries & Commerce,
SIDCO Buildings, Guindy, Chennai 600 032.

...Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records in R.C.No.10348/EG2/2014 dated 16.05.2014 on the file of the second respondent and quash the same

For Petitioner : Mr.A.Immanuel

For Respondent : Mr.S.Thangavel, Spl.Gov.Pleader
(for R1 and R2)

: Mr.S.Raghupathi
(for R3)

O R D E R

This petition has been filed to quash the orders passed by the 2nd respondent in R.C.No.10348/EG2/2014 dated 16.05.2014.

2. The case of the petitioner in nutshell is as follows.

The petitioner was appointed as Supervisor (Testing) in the Institute of Ceramic Technology, Virudhachalam on 07.05.1990 and further he was promoted to the post of Chemist Grade-I and then promoted as Principal / Assistant Director in Category-3. Thereafter, he was transferred from the post of Principal of Ceramic Institute to the post of Administrative Officer.

2.1. The first respondent vide orders dated 24.01.2014, again transferred the petitioner from the post of Administrative Officer, Industrial Estate of Ceramics to the post of Superintendent, Government Scientific Glass Training Centre, Coimbatore. Hence, the petitioner filed a writ petition in W.P.No.3322 of 2014 and the same was allowed. Against which, the first respondent filed writ appeal in W.A.No.664 of 2014 and it was dismissed on 31.10.2014. Accordingly, the petitioner was reposted as Administrative Officer, Government Industrial Estate for Ceramics, Vidhachalam and he joined duty on 02.01.2014.

2.2. Thereafter, the 2nd respondent issued a charge memo dated 16.05.2014, which was served to the petitioner on 19.11.2014, with the following charges.

1. that he has not received the transfer orders issued to him vide G.O.Rt.No.19, Micro, Small & Medium Enterprises [E1(i)] department dated 24.01.2015 due to his unauthorised absence from duty on 27.01.2014 and 28.01.2014.

2. that instead of joining in the post of Superintendent Government Scientific Glass Training Centre, Coimbatore, while on transfer, he entered on Unearned Leave with medical Certificate and his leave application was received only on 29.01.2014 at District Industries Centre, Cuddalore.

3. that he has failed to appear himself before the Medical Board, Cuddalore district on 24.02.2014 and 03.03.2014 and

4. by his above act, he has failed to perform his legitimate duty and thus violated Rule 20 of Government Servants Conduct Rules.

2.3. The contention of the petitioner is that his Medical leave for 12 days from 27.01.2014 to 07.02.2014, further extension of Medical leave for 14 days from 08.02.2014 to 21.02.2014, Earned leave for 14 days from 22.02.2014 to 07.03.2014 and Earned leave for 20 days from 08.03.2014 to 27.03.2014 were sanctioned by the competent authority, Joint Director (Establishment) vide proceedings No.23948/EE2/2014 dated 10.04.2014. Therefore, the petitioner has given representation dated 09.02.2015, 09.04.2015 and 30.06.2015 to the 2nd respondent to drop the charge memo, however, the 2nd respondent simply rejected the same. Hence, this writ petition.

3. Heard the learned counsel appearing for the petitioner as well as the Special Government Pleader. I have perused the materials on record.

4. The case of the petitioner is that the 2nd respondent has issued a charge memo against the petitioner for the reason that he has not received the transfer order dated 24.01.2014, due to his unauthorised absence from 27.01.2014 and 28.01.2014 and failed to appear before the Medical Board, Cuddalore on 24.02.2014 and 03.03.2014. It appears from the records that the leave availed by the petitioner in three spells for the period from 27.01.2014 to 27.03.2014 were sanctioned by the competent authority, Joint Director (Establishment) vide proceedings No23948/EE2/2014 dated 10.04.2015, as Medical Leave and Earned Leave. The above said fact is not disputed by the respondents. Therefore, the charge memo dated 16.05.2014 issued by the 2nd respondent for the unauthorised absence of the petitioner on 27.01.2014 and 28.01.2014 is illegal, without justification and non application of mind. Hence, the impugned order passed by the 2nd respondent is liable to quashed.

5. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Micro, Small and Medium Enterprises Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.

2. Principal Secretary/Industries Commissioner and
Director of Industries and Commerce,
Mandavelipakkam, Chennai 600 028.

+1 CC to Mr.A.Immanuel, Advocate sr 12735.

+1 CC to The Govt. Pleader sr 13628.

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SP(20/07/2020)