

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.12.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.10189 OF 2014

G.Ramathilagam

...
- Vs -

Petitioner

1.The District Elementary Educational Officer,
Kancheepuram District,
Kancheepuram.

2.The Assistant Elementary Educational Officer,
Chitamur,
Kancheepuram District.

3.The Headmistress,
Panchayat Union Middle School,
Chithamur Block,
Kancheepuram District.

Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the respondents to pass appropriate orders declaring the period of service from 17.10.2011 to 26.01.2012 as Special Disability Leave as prescribed under Fundamental Rule 83 of Tamil Nadu Government Employees Leave Rules 1933, owing to fracture sustained by the petitioner while performing official duty on deputation as Presiding Officer at Ponnammal Village of Lathur Block, Kancheepuram District in the Election duty of local body election and consequently disburse salary for the period of service from 17.10.2011 to 26.01.2012 by treating the period as duty period with consequential benefits within the time framed to be fixed by this court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr. S.Sureshkumar, G.A.,

ORDER

The petitioner in the above writ petition prays, to direct the respondents to pass appropriate orders declaring the period of service from 17.10.2011 to 26.01.2012 as Special Disability

Leave as prescribed under Fundamental Rule 83 of Tamil Nadu Government Employees Leave Rules 1933, owing to fracture sustained by the petitioner while performing official duty on deputation as Presiding Officer at Ponnammam Village of Lathur Block, Kancheepuram District in the Election duty of local body election and consequently disburse salary for the period of service from 17.10.2011 to 26.01.2012 by treating the period as duty period with consequential benefits within the time framed to be fixed by this court.

2. When the matter is taken up for consideration, learned counsel appearing for the petitioner submitted that while the petitioner was working as B.T. Assistant in P.U.M. School, Pudhupattu, Chithamur Block, Kancheepuram District was posted to Election duty during local body election conducted in October 2011, as Presiding Officer at Ponnammam village of Lathur Block, Kancheepuram district. While on election duty on 17.10.2011, she suffered fracture in her left leg and was treated with plaster bandage and subsequently operation was performed by insertion of plate connecting the broken bones and, therefore, she was on leave from 17.10.2011 to 26.01.2012 and she joined the post on 27.01.2012. It is the case of the petitioner that she was referred to Medical Board but, thereafter, she was allowed to join duty since she suffered injury while on duty. Since the petitioner sustained injury in consequence of due discharge of her official duty she ought to be granted with Special Disability Leave as per FR 83 of Tamil Nadu Government Employees Leave Rules 1933. However, the period from 17.10.2011 to 26.10.2011 was treated as earned leave and the remaining period up till 26.01.2012 was treated as leave on loss of pay and further the period was not taken into consideration as service period, on the ground that the petitioner was still in probationary period. It is the further stand of the petitioner that the Special Disability Leave under FR83 is available to a Government servant without reference to any declaration of probation and therefore she is entitled for pay for the leave period and the period should be treated as duty period. It is the grievance of the petitioner that in order to avail the leave benefits as per FR 83, she made a representation on 10.11.2011 to the 1st respondent and the said representations dated 27.1.12 was also forwarded by the 3rd respondent along with the necessary medical records, however the period was not considered as duty and no pay has been made and, therefore, left with no alternative, the present petition has been filed for a direction to the respondents to consider the representation dated 9.11.2011 within a reasonable time fixed by this Court.

3. On the above contention, this Court heard the learned standing counsel appearing for the respondents, who has filed a counter affidavit on behalf of respondent, denying the averments

made by the petitioner and contended that the petitioner has not applied for sanction of Special Disability leave while she was working in Chithamur Block and she has applied for sanction of leave on loss of pay on Medical certificate and it was already sanctioned, in accordance with FR 85(a). He further submitted that leave once sanctioned could not be modified unless it is an erroneous sanction and the Government or head of authority has powered to sanction special disability leave. However, if this court issues a direction to the respondent to consider the petitioner's application, it will be considered in accordance with law, if not considered already.

4. In view of the limited relief sought for, this Court, without going into the merits of the issue, directs the 1st respondent to consider the petitioner's representation dated 09.11.2011, in accordance with law, within a period of 3 months from the date of receipt of copy of this order, if not considered already.

5. Accordingly, this writ petition is disposed of with the above direction. There shall be no order as to costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

jrs

To

- 1.The District Elementary Educational Officer,
Kancheepuram District,
Kancheepuram.
 - 2.The Assistant Elementary Educational Officer,
Chitamur, Kancheepuram District.
 - 3.The Headmistress,
Panchayat Union Middle School,
Chithamur Block, Kancheepuram District.
- +1 cc to M/s.G.Sankaran Advocate sr40997
+1 cc to the Government Pleader High Court
sr41089

W.P. NO. 10189 OF 2014

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