



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.1137 of 2018 and

WMP (MD) Nos.1217 & 1218 of 2018

Soundararajan

Petitioner

Vs

1. The Commissioner of Land Records
Chepauk
Chennai
 2. The Additional Director (Survey and Land Records Department)
Chepauk
Chennai - 5
 3. The Assistant Director
(Survey and Land Records Department)
Collectorate Campus
Pudukkottai
 4. The Tahsildar
Aranthangi
Pudukkottai District
 5. The Medical Board
Government Medical College Hospital
Pudukkottai
- Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of the third respondent in his proceedings bearing Na.Ka.A5/280/2017 dated 17.04.2017 and the consequential impugned order of the third respondent in O.M.A3/4379/2017 dated 24.10.2017 (served to the petitioner on 09.11.2017) and quash the same and issue consequential direction, directing the third respondent to consider the leave period from 09.03.2017 to 22.03.2017 as the earned leave period.

For Petitioner : Mrs. Porkodi Karnan for
M/s. Polax Legal Solutions

For Respondents : Mr.Karuppasamy
Government Advocate



ORDER

This Writ Petition has been filed to call for the records pursuant to the impugned order of the third respondent in his proceedings bearing Na.Ka.A5/280/2017 dated 17.04.2017 and the consequential impugned order of the third respondent in O.M.A3/4379/2017 dated 24.10.2017 and quash the same and issue consequential direction, directing the third respondent to consider the leave period from 09.03.2017 to 22.03.2017 as the earned leave period.

2. Though the petitioner has sought for the relief for consideration of his leave period of 108 days as earned leave, the learned counsel for the petitioner submitted that the prayer in the Writ Petition is incorrect and the petitioner's leave period has to be considered as Medical leave. The submission made by the learned counsel for the petitioner is hereby recorded.

3. The petitioner, who was employed as a Surveyor cum draftsman, applied for medical leave from 05.12.2016 to 08.03.2017 for a period of 94 days and again from 09.03.2017 to 22.03.2017 for a period of 14 days, totalling 108 days.

4. The main issue involved in this Writ Petition is that the petitioner claims to have submitted his leave application to the fourth respondent through proper channel, in time and since he was not referred to the Medical Board in view of the delay on the part of the fourth respondent in forwarding the leave application of the petitioner to the third respondent, his leave application from 09.03.2017 to 22.03.2017 was treated as unearned leave.

5. The third respondent herein has filed a counter affidavit dated 02.01.2020, in which it is admitted by them that the petitioner's first spell of leave application from 05.12.2016 to 03.01.2017 was received by the third respondent on 24.01.2017 accompanied by the fourth respondent's letter dated 12.02.2016. The second spell of leave application for 28 days from 04.01.2017 to 31.01.2017 to the fourth respondent on 05.01.2017 was received by the third respondent on 18.01.2017 accompanied by the letter of the fourth respondent dated 11.01.2017. Likewise, the third spell of leave application for 28 days from 01.12.2017 to 28.02.2017 made to the fourth respondent on 03.02.2017 was received by them on 20.02.2017 along with the fourth respondent's letter dated 07.02.2017. The last spell of leave application for 28 days from 01.03.2017 to 31.03.2017 made to the fourth respondent on 03.03.2017 was received by the third respondent on 17.03.2017 along with the fourth respondent's letter dated 06.03.2017.

6. The respondents herein had taken a stand in the impugned order that since the petitioner's initial leave application for the



period from 05.12.2016 to 22.03.2017 was received by the third respondent office only on 24.01.2017, his application could not be referred to the Medical Board and therefore the petitioner's request to treat the total leave availed by him for 108 days from 05.12.2016 to 22.03.2017, as Medical Leave, cannot be considered.

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7. As per the Government Order in G.O.Ms.No.8 P&AR Department dated 19.01.2015, if the unearned leave on medical certificate is applied after more than 60 days, the competent authority shall refer the application to the Medical Board within a period of three days. Further, when the individual could not be referred to the medical Committee, such absence from duty shall be regulated by sanctioning other categories of leave, to which the individual may be eligible.

8. In the instant case, since the petitioner's leave exceeds 60 days and the Medical Board was of the view that the Medical Certificate was not in order, his leave was neither recommended, nor approved. The third respondent has taken a specific stand before this Court that since the initial leave application of the petitioner was received only on 24.01.2017 with a delay, the petitioner could not be referred to the medical board in time. As observed earlier, the petitioner's leave applications seems to have been submitted before the fourth respondent in time. However, there seems to be a delay on the part of the fourth respondent in forwarding the the same to the third respondent. Such a delay has disabled the third respondent in referring the petitioner's case to the Medical Board. When the delay had occurred owing to correspondences between these two departments, namely fourth and third respondents, such a delay cannot be put against the petitioner herein. Had the application been referred to the third respondent in time, the petitioner's case could have been referred to the Medical board and thereby he would be entitled for the leave to be treated under the category of Medical Leave.

9. In the light of the above observations, this Court is of the view that the petitioner would be entitled to be considered favourably by directing the respondents to consider the petitioner's leave period between 05.12.2016 to 22.03.2017 as Medical leave.

10. For all the foregoing reasons, the impugned order in O.M.A3/4379/2017 dated 24.10.2017 is hereby set aside. Consequently there shall be a direction to the third respondent to consider the petitioner's leave period of 108 days between 05.12.2016 to 22.03.2017 as Medical Leave and thereby disburse all the monetary benefits to the petitioner, to which he may be entitled to. Such exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order



11. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

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Sub Assistant Registrar(CS)

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To

1. The Commissioner of Land Records
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Chennai
2. The Additional Director (Survey and Land Records Department)
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Chennai - 5
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(Survey and Land Records Department)
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4. The Tahsildar
Aranthangi
Pudukkottai District
5. The Medical Board
Government Medical College Hospital
Pudukkottai

+1 CC to M/s.POLEX LEGAL SOLUTIONS, Advocate (SR-516[F] dated 07/01/2020)

+1 CC to M/s.SPL.GP (SR-729[F] dated 08/01/2020)

W.P. (MD) No.1137 of 2018 and
WMP (MD) Nos.1217 & 1218 of 2018
07.01.2020

GRL(CO)

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