



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.14775 of 2014

Gandhimathi

... Petitioner

-Vs-

1.The District Collector,
Karur, Karur District.

2.The Commissioner,
Karur Panchayat Union,
Karur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to disburse the petitioner's salary from 27.03.2012 to 13.01.2014 forthwith.

For Petitioner

: Mr.P.Pandiarajan

For Respondents

: Mr.D.Muruganandham

Additional Government Pleader (for R1)

Mr.R.Karthickrajan (for R2)

ORDER

The relief sought for in the present writ petition is to direct the respondents to disburse the petitioner's salary from 27.03.2012 to 13.01.2014 forthwith.

2.The grievances of the writ petitioner is that she was transferred from Gandhiar Middle School at Velayuthampalayam, Karur Panchayat Union, Karur to Keelaveliyur, Thogamalai Panchayat Union, in proceedings, dated 27.03.2012.

3.The learned counsel appearing on behalf of the writ petitioner states that interim stay was granted against the order of transfer. Therefore, the period of absence to be treated as leave without salary.

4.The counter filed by the second respondent reveals that the petitioner has obtained an order of interim stay in her favour against the order, dated 29.04.2012. But she has not chosen to communicate the said order to the respondents nor return to the duty in her originally appointed place i.e., Middle School at Velayuthampalayam. There was no obstruction from the side of the respondents from joining duty. However, the petitioner has not joined duty in the same place. The petitioner has not taken any



effective steps to join duty even after grant of interim stay granted by this court, she was taking rest at home and therefore, the principles of "no work no pay" should be applied.

5.This Court is of the considered opinion that based on the interim stay, the present writ petition is filed. Undoubtedly, the period of absence is to be regulated. However, the writ petitioner has not worked for the said period, despite the fact that there was no obstruction on the side of the respondents to join duty. Any employee, even if an interim stay is granted, she has to immediately join duty and if at all, the order of interim stay was not implemented, thereafter, appropriate steps are to be taken to implement the order.

6.Contrarily an employee, cannot remain absent merely holding that an interim stay order was in her hand. Such a practice is impermissible. Once an interim stay is granted by the High Court, immediately the employee is bound to continue in duty in the place where she was working and thereafter, if the respondents on communication of the order has not implemented the same, then, appropriate steps are to be taken to implement the order. Contrarily, the petitioner cannot assume the effect of the interim order and remain absent from attending duty. Such a conduct cannot be appreciated. However, the fact remains that the writ petitioner had not worked during the period, in which, the stay was in force. Thus, the period is to be regulated by the competent authorities in accordance with rules. The principles of "no work no pay" would be certainly applicable. Thus, the period is to be regulated as leave ineligible or in accordance with the rules in force. But the petitioner is not eligible to get the salary for the period from 27.03.2012 to 13.01.2014. In this view of the matter, the respondents are directed to regulate the period in accordance with the rules without salary.

7.With these observations, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj



To

The District Collector,
Karur, Karur District.

+1 CC to M/s.R. ANANDHARAJ, Advocate (SR-22596[F] dated 24/11/2020)

+1 CC to M/s.GP (SR-22755[F] dated 24/11/2020)

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23.11.2020

MR (CO)
AP(10/12/2020) 3P 4C