



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

CORAM:

THE HONOURABLE **MR.JUSTICE RMT. TEEKAA RAMAN**

W.P. (MD)No.17218 of 2015

and M.P. (MD)No.1 of 2015

K.Kannamani

... Petitioner

Vs.

1.The Additional Director of Agriculture (Personnel Management)
O/o. Additional Director of Agriculture,
Chepauk, Chennai - 05.

2.Joint Director of Agriculture,
18, West Kanmai Street,
Tallakulam, Madurai - 2.

3.Deputy Director,
Horticulture Department,
Madurai - 23.

... Respondents

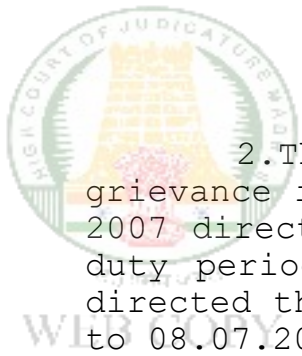
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in No.Ve.AN12/121960/2011, dated 11.09.2014 on the file of the respondent No.1 and quash the same as illegal and consequently to direct the respondents to pay the salary to the petitioner for a period of three months (08.04.2005 to 08.07.2005) in light of the judgment of this Court in W.P.(MD)No.2484 of 2007, dated 25.01.2012.

For Petitioner : Mr.T.Lajapathy Roy

For Respondents : Mr.J.Guna selan Muthiah,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the impugned order in No.Ve.AN12/121960/2011, dated 11.09.2014 on the file of the first respondent and to direct the respondents to pay the salary to the petitioner for a period of three months (08.04.2005 to 08.07.2005) in light of the judgment of this Court in W.P.(MD)No.2484 of 2007, dated 25.01.2012.



2.This is third round of litigation. The petitioner's only grievance is that this Court by its order made in W.P.(MD)No.2484 of 2007 directed the authorities to treat the intermediate period as a duty period and to pay salary. It is very clear that this Court directed the respondent therein to treat the periods from 08.04.2005 to 08.07.2005 as a duty period and to pay the salary.

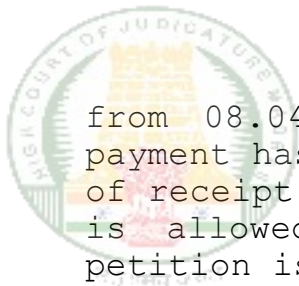
3.In W.P.(MD)No.2484 of 2007, by an order dated 25.01.2012 this Court passed the following order:-

"9. When an interim stay has been granted by this Court as early as on 13.04.2005 in W.P.(MD) No.3179 of 2005, it automatically follows that the petitioner and other persons were entitled to get the benefits from the date of the said order and on the other hand, the fact remains that they were allowed to join duty by the proceedings of the respondent only on 18.04.2005. Therefore, it was not due to the fault of the petitioner, the delay in joining the duty had occurred and consequently, the petitioner cannot be blamed in not joining duty till 08.05.2005. In view of the above discussed facts of circumstances, the petitioner is entitled to the benefits sought for in this writ petition by treating the period from 08.04.2005 to 08.07.2005 as a period on duty and consequently, she is entitled to the pay also to the said period. Therefore, the writ petition is allowed and the respondent is directed to treat the said period i.e., from 08.04.2005 to 08.07.2005, as a period on duty, consequently to pay the salary to the petitioner for the said period, within a period of four weeks from the date of receipt of a copy of this order."

4.Counter filed. The learned Additional Government Pleader brought to my knowledge that the impugned order passed as per the explanation forwarded by the respondent. As per the counter, the said period from 08.04.2005 to 08.07.2005 as duty period on earned leave and from 02.06.2005 to 08.07.2005 as duty period on leave on private affairs.

5.It is seen from the order passed by this Court in W.P.(MD) No.2484 of 2007 that duty joining letter was not issued by the respondent, even though this Court has granted interim stay in W.P.(MD)No.3179 of 2005.

6.After perusing the order passed by the learned Single Judge in W.P.(MD)No.2484 of 2007 and perusing the order passed by the respondent, in my considered view the present order passed by the respondent is not consonance with the judicial order passed by this Court and accordingly, the impugned order is set aside and period



from 08.04.2005 to 08.07.2005 is treated as duty and necessary payment has to be paid, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(P & A)

// True Copy //

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Sub Assistant Registrar(CS)

gns

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional Director of Agriculture (Personnel Management)
O/o. Additional Director of Agriculture,
Chepauk, Chennai - 05.
- 2.Joint Director of Agriculture,
18, West Kanmai Street,
Tallakulam,
Madurai - 2.
- 3.Deputy Director,
Horticulture Department,
Madurai - 23.

+1 CC to M/s.GP (SR-15383[F] dated 31/08/2020)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-15367[F] dated 31/08/2020)

W.P. (MD)No.17218 of 2015
28.08.2020

SCR(CO)

TR(15.09.2020) 3P 6C