



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.01.2020**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P. (MD)No.25679 of 2019

A.James

... Petitioner

/vs./

1.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region, Sivagangai District.

2.The Branch Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Devakottai Branch,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring the action of the second respondent in refusing and returning the petitioner's leave application, dated 30.09.2019 and 04.10.2019 is illegal and arbitrary exercise of power and consequently direct the respondents in particular the second respondent to receive his leave application with acknowledgment and to sanction medical leave to him with salary for the period from 21.09.2019 to 22.10.2019 based on his application, dated 23.09.2019, within a time frame that may be fixed by this Court.

For Petitioner : Mr.G.M.Xavier
For Respondents : Mr.P.Balasubramanian
Standing Counsel

ORDER

It is the case of the petitioner that he had met with an road accident when he was driven a two wheeler, owing to which, he had suffered injuries and treated as a inpatient for the period from 19.09.2019 to 22.09.2019. However, he sent a representation, dated 23.09.2019 to the second respondent requesting leave from 21.09.2019 to 30.09.2019 and again on 30.09.2019 for extension of leave from 01.10.2019 to 10.10.2019 along with the medical certificates. The second respondent had refused to receive it. Aggrieved against such a refusal, the present writ petition has been filed.

2.The issue as to whether the Corporation would refuse to receive the medical leave application had already came up before this Court and by an order dated 21.01.2019 passed in W.P.(MD)



No.24437 of 2018, it was held that there was no decision not in receiving the application for leave. The relevant portion of the said order reads as follows:-

"...7.The action of the third respondent in refusing to receive the registered letter in my considered opinion stems out of malice. It was open to the third respondent to reject the claim for medical leave or to have referred the petitioner to medical opinion by the Medical Officer of the Transport Corporation, if the third respondent had entertained any doubt about the claim of the petitioner. Admittedly, the said request has not been made. The third respondent would have considered the truth or otherwise the claim of the petitioner. The third respondent had made it very clear in the affidavit that the claim of the petitioner is false. Admittedly, no action has been taken by the management against the petitioner for unauthorized absence and the petitioner was allowed to join duty. Considering the circumstances of the case, I am of the firm opinion that the third respondent was not justified in not receiving the application for leave even without knowing the contents of the cover..."

3.Following the aforesaid decision and this Court is also of the view that refusal on the part of the respondents to receive an application is improper and the relief sought for by the petitioner requires consideration.

4.In the light of the above observation, the petitioner herein is granted at liberty to furnish copies of the earlier medical leave applications for the leave commencing from 19.09.2019 to 22.09.2019 along with the requisite medical certificates and on receipt of the same, the respondents herein shall consider the leave applications and pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of such copies from the petitioner.

5.The writ petition stands ordered accordingly. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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TO

1.The General Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region, Sivagangai District.

2.The Branch Manager,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Devakottai Branch,
Sivagangai District.

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-3565[F] dated
29/01/2020)

Order made in
W.P.(MD) No.25679 of 2019

KK/SAR/13.02.2020/3P-4C/