IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.21943 OF 2009

S.Abdul Bahseer ...Petitioner

..Vs..

1. The State of Tamil Nadu,
   rep. by the Principal Secretary,
   Commercial Taxes and
   Registration Department,
   Fort St. George, Chennai -9.

2. The Commissioner of Commercial Taxes,
   Chepauk, Chennai -5. ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records relating to the respondent's order made in Lr.No.6218/E2/2008-7 dated 24.04.2009 to quash the same and consequently direct the respondents to regularise the period between 01.05.2006 and 21.12.2006 as Medical Leave and to extend all benefits arising thereto for the purpose of Pension and Pensionary benefits.

For Petitioners : Ms.N.R.Jasmine Padma

For Respondents : Mr.C.Selvaraj
Government Advocate

O R D E R

Heard Ms.N.R.Jasmine Padma, learned counsel for the petitioner and Mr.C.Selvaraj, learned Government Advocate for the respondents.

2. The petitioner has challenged an order passed by R1 i.e., the Principal Secretary, Commercial Taxes and Registration Department, dated 24.04.2009 rejecting his request for

constitution of a new Medical Board to consider the petitioner's request for regulating the leave period on medical grounds.

3. The history of the matter is as follows:



The petitioner was appointed as an Audit Assistant in the Local Fund Audit Department on 01.05.1975 and promoted through the ranks till his appointment as Assistant Commissioner in 2002. He claims to have suffered persistent health problems, for which, he availed of treatment from Irudayams Hospital Private Limited, at Nagercoil, which has been successful in treating similar ailments as he suffered, non-invasively.

4. He claims to have undergone treatment initially for a period of one month from 01.05.2006, which he states was then extended periodically till 22.12.2006. He appeared before the Medical Board with all reports in support of his medical claim and was issued a fitness certificate to join duty on 22.12.2006. However, the medical leave was not sanctioned. He thus sought constitution of a second Medical Board. The Report of the Board dated 14.02.2007 constituted for the second time, contains contradictions since on the one hand, the Board indicates that the leave could be regularised on medical grounds, but, in conclusion, does not recommend such regularisation.

5. The enclosures received by the Dean in support of the Report dated 14.02.2007, are medical and leave certificates. Based on the aforesaid Report, the application of the petitioner for regularisation of the leave on medical grounds has come to be rejected vide the impugned order. The petitioner contends that incomplete records were forwarded to the Board, and had the complete files been forwarded, the Report would have been in his favour.

6. On the earlier occasion, I had directed that the records be produced to verify whether comprehensive medical records in support of the petitioner's claim were part of the records sent to the Board for their perusal. I have seen that the records do contain some documents indicating treatment in the Irudayams Hospital (P) Limited.

7. However, even assuming that the aforesaid documents had been available before the Dean and the Dean ought to have constituted a third Medical Board, as per petitioner's request, there would be no benefit left for the petitioner to avail at this distance of time, since the result would only be the constitution of a Medical Board, for the third time. Upon such constitution, the petitioner anticipates that the Board would then proceed to deliberate upon his medical records and arrive

at a finding as to the justification for the leave availed by him.

8. The petitioner has superannuated from service in 2010. That apart, there is nothing to suggest that the medical records have not been perused by the Medical Board. This is a classic case where the writ petition has lost all stream simply by virtue of prolonged pendency before this Court and for the foregoing reasons, I am not inclined to interfere in the impugned order.

9. This Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Principal Secretary,
   State of Tamil Nadu,
   Commercial Taxes and Registration Department,
   Fort St. George, Chennai -9.

2. The Commissioner of Commercial Taxes,
   Chepauk, Chennai -5.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.44466
+1cc to Special Government Pleader (T), S.R.No.44957
+1cc to Government Pleader, S.R.No.44618

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GPL(CO)
CS/29/09/2021