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W.P.No.19145 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19145 of 2016

D.Aloysius Prabhu

...Petitioner

Vs.

The Principal Secretary to Government/
Director Industries and Commerce Department,
Guindy,
Chennai.

Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent to pass orders on the Revision petition filed by the petitioner dated 21.03.2016 and grant such other further relief as this Court.

For Petitioner : Mr.R.Dinesh Kumar

For Respondent : Mr.R.P.Murugan Raja
Government Advocate



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ORDER

The relief sought for in the present writ petition is to direct the respondent to pass orders on the Revision Petition filed by the petitioner on 21.03.2016.

2.The petitioner was working as factory Assistant. He was deputed to the Mercunad Indco Tea Factory Limited in proceedings dated 03.10.2015 by the Managing Director. The petitioner has not joined in the deputed place and therefore, the respondent issued a memo on 18.02.2016, asking the petitioner to submit an explanation within seven days, failing which, disciplinary action will be initiated against him. Instead of responding to the Show Cause Notice issued by the respondent, the petitioner has simply filed a Revision Petition before the Principal Secretary/Director of Industries and Commerce Department.

3.The question to be considered is whether, a Revision petition is contemplated against the Show Cause Notice under the service rules. The petitioner has not established that the Revision Petition is filed under the relevant service rules and therefore, it is to be entertained. However, against the Show



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Cause Notice, no revision is ordinarily be entertained. Whenever an employee was issued with a Show Cause Notice, he is bound to submit an explanation and in the event of passing a final order, then alone an appeal or revision would lie under the rules and not otherwise.

4. Deputation is on administrative exigencies. Deputation would not infringe the service condition of an employee. Transfer and deputation are incidental to service, more so, a condition of service. Therefore, in the event of any personal grievance to an employee that on deputation he is not in a position to join, then he has to make a representation to the authorities. However, he is expected to joint duty till such time. No employee can simply desert the duties and submit a representation and thereafter, could blame on the authorities on the ground that they have preferred a revision petition and that revision petition was not decided and therefore, he could not be able to join the duty. This is not a manner in which a public servant has to perform his duties and responsibilities. Public servants are getting decent salary and therefore, they are expected to perform their duties and responsibilities vigilantly at all circumstances and therefore, deputation *per se* would not provides any cause for a writ petitioner to file a writ petition. However,



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it provide a cause for him to approach the authorities and in the present case, the petitioner filed a revision petition in the year 2016 and filed the present writ petition. It is not made clear by either of the parties before this Court that the Revision petition was disposed or kept pending. In either of the circumstances, the petitioner is not entitled for any relief. The applicability of the revision is also to be considered by the competent authority. If at all, the Revision petition is not disposed of for the past about six years, it is for the petitioner to once again approach the authorities. More so, if the petitioner has not at all joined in the deputed post for the past about six years or otherwise, then the respondent is at liberty to initiate all appropriate actions.

5. With this liberty, this writ petition stands dismissed. No Costs.

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Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No
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S.M.SUBRAMANIAM, J.

SSR

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