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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7033 of 2022

N.Bhaskaran

...Petitioner

Vs.

1.Government of Tamil Nadu

Rep. by Principal Secretary and Transport Commissioner,
Chepauk, Chennai - 603 005.

2.Secretary to Government,

Revenue Department, Fort St.George,
Chennai - 600 009.

3.The Commissioner for Revenue Administration,
Chepauk, Chennai - 600 005.

4.The District Collector, Kanchipuram District,
Kanchipuram.

5.The Regional Transport Officer,
Kanchipuram District, Kanchipuram.

6.The Special Tahsildar,
Adidraavidar Welfare (AD&W)
Maduranthagam, Chengalpet - 603 306.

7.The Transport Commissioner,
Transport Department, Chennai - 600 005.

...Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1, 2 and 4 and more particularly the 4th respondent District Collector Kanchipuram to reinstate the petitioner into service and confer all service benefits like Regularization, Seniority, Promotion, Pay Revision Arrears of Salary, by recalling the order dated 23.12.2017 following the representation of the petitioner dated 19.10.2018, 18.08.2020 and 21.04.2021.



For Petitioner : Mr.S.Sadasharam

For Respondents : Mr.S.Prabhakaran
Government Advocate

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ORDER

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The writ petition has been filed seeking to issue Writ of Mandamus directing the 4th respondent to reinstate the petitioner into service and to pay all service benefits by recalling the order dated 23.12.2017, following the representations of the petitioner.

3. The case of the petitioner in brief:

The petitioner was appointed as Typist by the 4th respondent on 27.11.2007 and was working on various places by transfer in the department till 2012. On 04.06.2012 the petitioner met with an accident and was admitted in JIPMER Hospital at Puducherry and then shifted to Madurai K.S.Hospital. The petitioner produced the medical certificate for taking treatment from 04.06.2012 to 15.07.2012. Thereafter, he sought Medical Leave for one month till 16.08.2012 and then, on 17.08.2012, again sought Medical Leave for another one month. On 18.09.2012, he reported to duty along with fitness certificate before the PA to the Collector and it was received. However, the petitioner was not permitted to join duty.

3.1. The petitioner gave various representations addressed to the District Collector, Kanchipuram, but there was no response. On 19.01.2015, the 4th respondent issued show cause notice, calling upon the petitioner to give explanation on the allegation of availing leave, without getting prior permission and failure to submit application for Medical Leave within the time and he was absent from duty for about 108 days.

3.2. The petitioner submitted his explanation. Thereafter, without conducting any enquiry, the 4th respondent issued order dated 23.12.2017, levelling so many charges against the petitioner, which were not referred to in the show cause notice. The petitioner gave representation on 25.02.2018. Again he gave representation on 18.08.2020, requesting the 4th respondent to reinstate him into service with consequential service benefits. The copy of the same was addressed to the respondents 1 to 3.

3.3. The District Collector Chengalpattu, vide letter dated 14.12.2020, directed the petitioner to make representation



to the District Collector Kanchipuram, for cancelling the order dated 23.12.2017 and for reinstatement of service. Accordingly, the petitioner made representation before the fourth respondent. But they have not chosen to examine the case of the petitioner in accordance with law. Hence this writ petition.

4. Mr.S.Prabhakaran, learned Government Advocate appearing for the respondents submitted that the petitioner was appointed as Typist, temporarily, under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules. Therefore, the petitioner has no right to avail Medical Leave, except casual leaves. Further, the order passed by the 4th respondent dated 23.12.2017, has become final, but, the petitioner has not challenged the above said order. Without challenging the above order, the petitioner has sought for reinstatement of service. Hence, this writ petition is liable to be dismissed.

5. Admittedly, the petitioner was appointed as Typist under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules. It is the contention of the petitioner that he met with an accident during the year 2012 and hence, he availed Medical Leave for taking treatment and after availing the medical leave, he reported to duty on 18.09.2012, however, he was not permitted to join duty. It is pertinent to note that, the petitioner has not approached the court immediately after 18.09.2012 and after a period of more than nine years, this writ petition has been filed seeking reinstatement of service. Further, in the orders dated 23.12.2017, it has been clearly stated that the petitioner being the 10(a)(i) Candidate, he is not entitled to avail Medical leave and the vacancies in the Revenue Region for the post of Typist has been filled up through TNPSC and hence, the claim of the petitioner to reinstate him in service, cannot be considered. Since the petitioner has not challenged the above order dated 23.12.2017, which has become final, this court is of the view that, there is no merits in the writ petition and hence, the same is liable to be dismissed.

6. Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

mst



To

1. Government of Tamil Nadu

Rep. by Principal Secretary and Transport Commissioner,
Chepauk, Chennai - 603 005.

2. Secretary to Government,
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Chennai - 600 009.

3. The Commissioner for Revenue Administration,
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Kanchipuram.

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Maduranthagam, Chengalpet - 603 306.

7. The Transport Commissioner,
Transport Department, Chennai - 600 005.

+1cc to Mr. S. Sadasharam, Advocate SR.No.20549

+1cc to the Government Pleader, SR.No.21003

W.P.No.7033 of 2022

PL(CO)
CB(08/04/2022)