



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16-06-2022

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.17620 of 2014

P.Thirunavukkarasu

.. Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Home (Police III) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director General of Police,
Radhakrishnan Salai,
Chennai-600 004.

3.The Deputy Commissioner of Police,
Chennai Sub Urban Police,
St. Thomas Mount,
Chennai - 600 016.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records culminating in RC No.LII/4471/63143/2010 dated 12.05.2011 passed by the third respondent; Letter No.35027/Pol.3/2012 dated 20.09.2013 of the first respondent and K.Dis.No.85175/PBA (2(1)/2013 dated 22.10.2013 of the second respondent and quash the same and consequently direct the respondents to treat the petitioner's medical leave from 17.12.2010 to 28.04.2011 for 133 days also as Unearned Leave on Medical Certificate, with full pay and allowance and other consequential benefits.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.M.Bindran,
Additional Government Pleader.



O R D E R

The orders impugned passed by the respondents 1, 2 and 3 declining the request of the writ petitioner to treat the leave period as duty with full salary, are under challenge in the present writ petition.

2. The writ petitioner has joined as Grade-I Police Constable on 15.04.1974. He was promoted upto the level of Inspector of Police and reached the age of superannuation on 30.04.2011 and allowed to retire from service.

3. After retirement, the petitioner filed the present writ petition questioning the validity of the orders rejecting the request of the writ petitioner to regulate the leave period as duty with full salary and other benefits.

4. The petitioner was on medical leave for more than 60 days continuously and he was directed to appear before the Regional Medical Board at Government Royapettah Hospital, Chennai. The petitioner appeared before the Medical Board and the Medical Board has given him a Fitness Certificate to report for duty with effect from 29.04.2011. The petitioner rejoined duty on 29.04.2011.

5. The grievance of the writ petitioner is that he was not paid salary from 18.10.2010 to 28.04.2011 i.e., for 6 months and 13 days.

6. The learned counsel for the petitioner made a submission that the said period is to be regulated as duty for all purposes and the salary is to be paid to the writ petitioner. The said benefit is to be treated as Earned Leave for all purposes with full salary.

7. This Court is of the considered opinion that the petitioner has availed the medical leave for more than 60 days continuously. He was referred to Medical Board and based on the Fitness Certificate, the petitioner joined duty. Thus the Authorities have ascertained the eligibility of the petitioner and accordingly regulate the period of leave.

8. The claim of the writ petitioner to treat the said period of leave as Earned Leave, cannot be considered by this Court in writ proceedings as it involves scrutinisation of eligibility of the writ petitioner with reference to his services rendered in the Department. Such an exercise in writ proceedings would result in unjust advantage as it relates to long medical leave and the portion of the leave was already regulated as medical leave and rest of the period was also



regularised. The Authorities have considered the case of the writ petitioner and formed an opinion that the leave period was already regulated and further leave period cannot be regulated as Earned Leave as per the request of the writ petitioner. The discretionary powers exercised by the Authorities regarding the regularisation of the leave period need not be interfered with by the High Court in writ proceedings and therefore, this Court is not inclined to entertain the claim of the writ petitioner.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn
To

1.The Secretary to Government,
State of Tamil Nadu,
Home (Police III) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director General of Police,
Radhakrishnan Salai,
Chennai-600 004.

3.The Deputy Commissioner of Police,
Chennai Sub Urban Police,
St. Thomas Mount,
Chennai - 600 016.

+1 cc to Government Pleader Sr.NO. 36898

+1 cc to Mr.A.Mohamed Ismail, Advocate Sr.NO. 36326

WP 17620 of 2014

NK(CO)
A.SK(29/06/2022)