



W.P.No.32266 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32266 of 2018

R.Chendrayan

...Petitioner

Vs.

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.Block Development Officer,
Uthangarai Panchayat Union,
Krishnagiri District.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records of the 1st Respondents in Proceedings No.Na.Ka.No.20642/2017/X1 dated 15.10.2018 and quash the same, consequential direction to the 1st Respondent to regularize the period from 04.12.2012 till 16.04.2015 as “duty period” and to pay the salary and all other benefits to the petitioner for he said period.



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For Petitioner : Mrs.Selvirajesh
For R1 : Mrs.E.Indhumathi
Government Advocate
For R2 : Mrs.S.Anitha
Special Government Pleader

ORDER

The order of rejection, rejecting the claim of the writ petitioner to regulate the period of non-work from 04.12.2012 to 16.04.2015 as duty with full salary is under challenge in the present writ petition.

2. The petitioner was appointed as Noon Meal Organizer on 01.02.1983. He was transferred to Chennappanayakanoor. Again, he was transferred to Uthangarai in the year 2012. Once again, the petitioner was transferred to Panchayat Union Elementary School, Ganampatti. The petitioner filed a writ petition in W.P.No.34430 of 2012, challenging the order of transfer and the writ petition was dismissed on 26.07.2013. The petitioner filed W.A.No.2356 of 2014, which was allowed on 29.10.2014. The petitioner made a request on 10.11.2014 to treat the intervening period of his absence as duty from 04.12.2012 to 16.04.2015 and to regularize the period. Subsequently, the writ petitioner filed another writ petition in



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W.P.No.18830 of 2017 and this Court, on 11.08.2018, directed the respondents to consider the representation. The representation was rejected by the District Collector on 15.10.2018 and the said order of rejection is under challenge in the present writ petition.

3. The learned counsel for the petitioner states that the petitioner is not responsible for not joining duty. The respondents were not allowed the petitioner to join duty in the place and therefore, the period is to be treated as duty with full salary for all purposes.

4. The learned Government Advocate appearing on behalf of the 1st respondent and the learned Special Government Pleader appearing on behalf of the 2nd respondent have stated that the petitioner after receiving the transfer order of the 1st respondent in proceedings in ka.no.25565/12/x1 dated 28.11.2012, did not join the duty and did not notify his absence from duty to the Block Development Officer, Uthangarai. The petitioner joined duty as noon meal organizer only on 16.04.2015 after receiving the transfer order from the 1st respondent in proceedings in.ka.no.4333/2013/x1 dated 08.04.2015. Hence, the petitioner is claiming to consider his absence from



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duty without proper information to the higher authority as 'duty period', which has been denied for the aforesaid reason. The same has been communicated to him through pro.na.ka.no.20642/17/x1 dated 05.10.2018. The petitioner after receiving the transfer order from the 1st respondent pro.na.ka.no.25565/12/x1 dated 28.11.2012 did not join the duty and did not inform the immediate reporting officer. Without considering the duties, neglecting the responsibilities of the job and absconding from duty, the petitioner had only been a stagnant and blockade for the functioning of the district administration.

5. Even if the petitioner challenged the order of transfer before the High Court, he should have been joined in the transferred place during the pendency of the writ petition. It is not the case of the petitioner that he was not permitted to join duty in the transferred place. Therefore, the petitioner remained absent at his own volition and not at the instance of the respondents.

6. An employee, who was transferred, is expected to join duty in the transferred place. If such an employee challenged the order of transfer before



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the Court of law, in the absence of any interim order, he should have been joined in the transferred place till such time the writ petition is to be decided by the Court.

7. However, in the present case, the petitioner remained absent and not attended duty. Therefore, the principles of “no work, no pay” would be applicable. Thus, the petitioner is not entitled to seek regularization of the period of absence as duty with full salary. However, the period was regularized as leave eligible with continuity of service and therefore, no further consideration is required in respect of the claim set out in the present writ petition.

8. In the present case, the earlier writ petition filed by the petitioner was dismissed and the writ appeal filed by the petitioner was allowed. It is brought to the notice of this Court that the petitioner was not joined duty after dismissal of the writ petition. However, there are no specific orders from the Court to treat the period of absence as duty with full salary. The petitioner also had not joined duty and remained absent. Therefore, the said period is regularized as leave eligible and under these circumstances, this



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Court is of an opinion that the period cannot be treated as duty with full salary as the principles of “no work no pay” would be applicable.

9. Accordingly, the writ petition stands dismissed. No costs.

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Index : Yes
Speaking order: Yes
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To

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2. Block Development Officer,
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S.M.SUBRAMANIAM, J.

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