



W.P.(MD)No.15989 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.15989 of 2012

P.Vishvanathan

... Petitioner

Vs.

The Chairman,
Tamil Nadu Grama Bank,
Head Office No.6, Yercaud Road,
Hasthampatty,
Salem-636 007.

... Respondents

Respondent's cause title amended vide order dated 04.08.2021 in W.M.P(MD).No.8715 of 2021 in W.P(MD).No.15989 of 2012.

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in PAD/CD/2012-13 dated 26.05.2012 issued by the respondent herein, quash the same and consequently direct the respondent to pay 16 days salary from 16.05.2012 to 31.05.2012 to the petitioner with interest @ 12% per annum.



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For Petitioner : M/s.M.Nandhini Priyadharshini
for M/s.D.Geetha
For Respondent : Mr.P.Senthil

ORDER

This Writ Petition has been filed to call for the records relating to the order passed by the respondent in PAD/CD/2012-13 dated 26.05.2012, quash the same and direct the respondent to pay 16 days salary from 16.05.2012 to 31.05.2012 to the petitioner with interest @ 12% per annum.

2. A short issue for consideration of this Court is that whether the deduction of salary for the period from 16.05.2012 to 31.05.2012 can be sustained, when the petitioner has applied for medical leave?

3. It is submitted by the learned counsel appearing for the petitioner that the petitioner has joined as Clerk in the respondent Bank on 07.01.1981 and served in various capacities. He has submitted a leave



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letter seeking medical leave from 16.05.2012 to 31.05.2012 along with medical certificate. On 01.06.2012, he submitted his resignation letter to the respondent. However, on 04.06.2012, the petitioner has received a letter from the respondent stating that the medical certificate submitted by the petitioner was not acceptable and his leave was treated as unauthorized absence on loss of pay on non-medical grounds from 16.05.2012, without prejudice to initiate disciplinary action against him. Hence, the present writ petition has been filed.

4. The learned counsel appearing for the respondent submitted that the petitioner was frequently applying for medical leave. Earlier, he has applied for medical leave (i.e.,) from 16.04.2012 to 30.04.2012, 01.05.2012 to 15.05.2012 and 16.05.2012 to 31.05.2012. He was holding the responsible post (i.e.,) Manager of Tamil Nadu Grama Bank. Therefore, considering the conduct and attitude of the petitioner, the respondent has not accepted the medical certificate submitted by him and his leave was treated as unauthorized absence.



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5. This Court considered the rival submissions made on behalf of the parties and perused the records.

6. It is not in dispute that the petitioner was working as Manager of the respondent Bank and he was permitted to retire from service on 30.08.2012. The petitioner was on leave from 01.05.2012 to 15.05.2012 and then, he has submitted another medical leave application along with the medical certificate to avail leave from 16.05.2012 to 31.05.2012. The medical certificate produced by the petitioner shows that he was suffering from depression and the Doctor has recommended that he requires leave for 16 days. However, without considering the above fact, the respondent has passed the impugned order stating that the medical certificate submitted by the petitioner was not acceptable and his absence was treated as unauthorized absence on loss of pay.

7. It is fairly conceded by the respondent that no disciplinary action was taken against the petitioner and he was permitted to retire



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from service on 30.08.2012. When there is no disciplinary action was taken against the petitioner, it goes without saying that the respondent is not entitled to deduct salary for the leave availed by the petitioner from 16.05.2012 to 31.05.2012. Moreover, it is seen from the records that without referring the petitioner to the medical board, the respondent has rejected the medical leave application submitted by the petitioner, which is not in accordance with the Rules. If the respondent has any doubt with regard to the claim of illness by the petitioner, it should have taken steps to refer the petitioner to the Medical Board to get the opinion of the Doctors and take action. However, this procedure has not been followed by the respondent. Therefore, this Court is of the view that denial of medical leave to the petitioner for the period from 16.05.2012 to 31.05.2012 is not correct and legal. Hence, the order passed by the respondent in PAD/CD/2012-13 dated 26.05.2012 is quashed and the respondent is directed to pay salary for 16 days (i.e.,) from 16.05.2012 to 31.05.2012 with interest at the rate of 12% per annum from the date of entitlement till the date of payment.



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8. Accordingly, the Writ Petition stands allowed. No costs.

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Internet: Yes/No

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To

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G.CHANDRASEKHARAN, J.

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