



W.P.(MD) No.3426 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.3426 of 2020

R.Kanagaraj

... Petitioner

-VS-

- 1.The Director of Adi Dravidar and Tribal Welfare Department
Adi Dravidar and Tribal Welfare Department
Ezhilagam, Chennai.
 - 2.The District Adi Dravidar and Tribal Welfare Department
O/o. The District Adi Dravidar and Tribal Welfare Department
Virudhunagar District.
 - 3.The District Adi Dravidar and Tribal Welfare Department
O/o. The District Adi Dravidar and Tribal Welfare Department
Tuticorin District.
- ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Mu.Mu.ti3/7085/18 dated 11.09.2018 on the file of the respondent No.2 and quash the same as illegal insofar as treating the period of service of the petitioner from 07.05.2018 to



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02.08.2018 as earned leave and consequently for a direction, directing the respondent Nos.2 and 3 to treat the non-employment period from 07.05.2018 to 02.08.2018 as duty period and provide salary to the petitioner in accordance with the judgment of this Court in W.P.(MD) No.9827 of 2018 dated 11.07.2018.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.G.V.Vairam Santhosh

ORDER

Challenging the impugned order of the 2nd respondent dated 11.09.2018 and for a consequential direction to the respondent Nos.2 and 3 to treat the non-employment period from 07.05.2018 to 02.08.2018 as duty period and provide salary to the petitioner in accordance with the judgment of this Court in W.P.(MD) No.9827 of 2018 dated 11.07.2018, this writ petition has been filed.

2.It is the case of the petitioner that the petitioner was appointed as a Cook on 21.06.1990 and promoted as Jeep Driver on 13.06.2005. While



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so, in the year 2012, he was transferred from Virudhunagar to Ramanathapuram, which was challenged before this Court in W.P.(MD) No. 4183/2012, wherein, an order of stay has been granted. Pursuant to which, he was allowed to join in the 2nd respondent office. Subsequently on 14.02.2018, the said writ petition came to be dismissed. However, pursuant to the dismissal order, the 2nd respondent erroneously issued another transfer order on 09.04.2018 and a writ petition came to be filed challenging the said transfer and pursuant to an order of stay dated 09.05.2018, the petitioner continued in the said place. While so, in the place of the petitioner, one Krishnamoorthy was transferred, which was also challenged before this Court. Subsequently, both the writ petitions were clubbed together and a common order was passed, wherein, this Court directed the respondents to transfer the petitioner to the office of the third respondent, since the petitioner worked, treat the period from 07.05.2018 to 02.08.2018 as duty period and release the salary of the petitioner. Pursuant to the direction of this Court, on 31.07.2018, the petitioner was transferred to Tuticorin. While issuing the order of transfer, the 2nd respondent treated the period from 07.05.2018 to 02.08.2018 as earned leave, which is in violation



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of the order passed by this Court on 11.07.2018. Hence, the petitioner is before this Court with this petition.

3. The learned counsel for the petitioner would submit that the impugned order is contrary to the order passed by this Court dated 11.07.2018.

4. Heard the learned Additional Government Pleader for the respondents.

5. Considering the facts and circumstances of the case and considering the directions issued by this Court in the earlier round of litigation, this Court is of the view that as against the non implementation of the order of this Court dated 11.07.2018, a contempt petition shall be filed, however, without filing contempt petition, filing another writ petition is not appropriate for the petitioner. Hence, on the sole ground, this writ petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law and the time spent in the writ petition is



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excluded for the purpose of limitation. No costs. Consequently connected

Miscellaneous Petition is closed.

06.12.2022

Index : Yes
Internet : Yes/No

RR

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M.DHANDAPANI, J.

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