



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.14479 of 2015

and

M.P. (MD)No.1 of 2015

G.Thangam ... Petitioner

vs

1. The Director,
Medical Education Department (Admn)
Chennai-10.

2. The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records in connection with the Impugned order passed by the second Respondent in Mu.Mu.No.2604/N1/2011 dated 29.10.2012 and the consequential order of the second respondent Mu.Mu.No.12916/N3/2012 dated 11.12.2014 quash the same as illegal and consequently directing the second respondent herein to settle the petitioner entire terminal benefits.

For Petitioner : Mr.K.Esakki

For Respondents : Mrs.D.Farjana Ghoushia for R1 & R2
Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 29.10.2012 and 11.12.2014.

2. The brief facts of the case are that the petitioner has rendered 32 years of service in the second respondent College as Electrician Grade II and attained superannuation on 31.10.2012. The allegation against the petitioner is that he has not maintained the Log Book from 28.08.2008 to 30.11.2010 and has received a sum of Rs.8,73,450/- for purchase of fuel to run the generator for the period from 28.08.2008 to 25.11.2010. The petitioner has not maintained the Generator properly and he has not attend the duty properly. In view of this allegation, a Charge Memo was issued on



06.07.2011 and the petitioner was kept under suspension from 08.06.2007 to 06.07.2011. Thereafter, an enquiry was conducted and the enquiry report states the charges were held proved wherein it has been held the 50 liters of kerosene was not brought to the accounts by the petitioner and created loss. Thereafter, the disciplinary authority vide order dated 29.10.2012 has imposed a punishment directing the petitioner to pay Rs.1660/-, which is the cost of the 50 liters kerosene. In the impugned order it has been stated that the period of suspension from 09.06.2011 to 11.09.2012 shall be considered as eligible leave to the petitioner. Based on this subsequent order dated 11.12.2004 was passed treating the period from 08.06.2011 to 02.02.2012 was considered as an earned leave and from 03.02.2012 to 31.07.2012 it is considered as leave on personal reason and from 01.08.2012 to 11.09.2012 it is considered as extraordinary leave (without Medical Certificate). The petitioner has challenged both the impugned orders.

3. The respondents submitted that the petitioner has admitted the guilt and paid the amount. The petitioner's contention was considered during enquiry and thereafter the respondents have come to the conclusion that the charges are proved. There is no violation of principles of natural justice. The punishment is proportionate and therefore prayed to dismiss the writ petition.

4. Heard Mr.K.Esakki, learned Counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the first and second respondent.

5. The impugned order states that the petitioner has admitted the guilt and hence the punishment to pay the loss amount of Rs.1660/- was imposed along with treating the suspension period as earned leave from 09.06.2011 to 11.09.2012. The consequential order imposed the punishment by treating from 08.06.2011 to 02.02.2012 as earned leave for 240 days. Then from 03.02.2012 to 31.07.2012 is considered as leave on personal reasons for 180 days and from 01.08.2012 to 11.09.2012 it is considered as extraordinary leave (without Medical Certificate) for 42 days. This Court is of the considered opinion that having imposed the punishment of payment of Rs.1660/- as loss for not accounting 50 liters of kerosene, the further order of regularizing the suspension period as earned leave is disproportionate punishment. Therefore, the entire period from 09.06.2011 to 11.09.2012 shall be considered as duty period. Therefore, the respondents are directed to convert the suspension period as duty period and pay all the monetary benefits within a period of six weeks.



6. The petitioner submitted that he was not paid terminal benefits but the same contention was refused by the Government Pleader. If the respondents have not paid any terminal benefits and the same shall be paid within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Director,
Medical Education Department (Admn)
Chennai-10.
2. The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli.

+1 CC to M/s.K. ESAKKI, Advocate (SR-18688[F] dated 13/04/2022)
+1 CC to M/s.SPL.GP. (SR-18984[F] dated 18/04/2022)

Order made in
W.P. (MD) No.14479 of 2015
13.04.2022

kg (CO)

TP(25-05-2022)-3P 5C
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