



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD).No.14101 of 2018

K.Kanthavel

... Petitioner

Vs.

The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Paramakudi - 623 707,
Ramanathapuram District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned reply letter No.Nil dated 24.04.2017, of the respondent and set-aside the same and consequently direct the respondent to treat Sunday holidays 05.10.2008 and 02.11.2008 as medical leave and to treat 13.01.2009 to 16.01.2009 and 15.04.2009 to 17.04.2009 as Casual leave instead of Earned leave and sanction the Medical leave with medical certificate period from 14.11.2013 to 23.11.2013 as Medical leave instead of Earned leave within a reasonable time fixed by this Court.

For Petitioner : K.Kanthavel,
(Party in Person)
For Respondent : Mr.Anand Gopalan

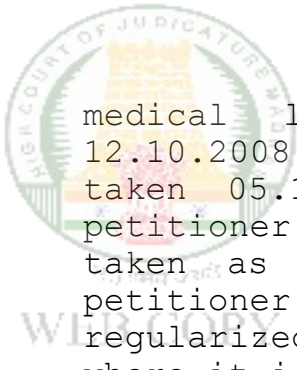
ORDER

This Writ Petition is filed to quash the impugned order dated 24.04.2017 and consequently direct the respondents to treat the Sunday holidays as medical leave and to treat the certain period as casual leave instead of Earned leave and sanction the Medical leave by accepting the medical certificate.

2. The brief facts of the case are that the petitioner earlier was working as Assistant (Selection Grade) in Tamil Nadu Magnesium and Marine Chemicals Limited. Due to loss in Company, the petitioner was absorbed in TNEB on 19.01.2002 and has retired on 31.05.2016. While he was in service, certain period were not properly regularized hence the petitioner is before this Court. Aggrieved over the same the present writ petition is filed.

3. Heard K.Kanthavel, (Party in Person) and Mr.Anand Gopalan, learned counsel for the respondent.

4. The contention of the petitioner is that the petitioner had worked until 04.10.2008 and on 05.10.2008 being Sunday it was weekly off. Then on 06.10.2008 the petitioner had applied for



medical leave with medical certificate from 06.10.2008 to 12.10.2008. While considering for medical leave, the respondent has taken 05.10.2008 also as Earned Leave. The contention of the petitioner is that 05.10.2008 falls on Sunday and the same cannot be taken as Earned Leave. The respondent has submitted that the petitioner's representation was considered and leave period was regularized which is stated in the proceedings dated 02.06.2010 where it is stated as under:

“ தங்கள் விண்ணப்பத்தை பரிசீலனை செய்து 05.10.2008 அன்று 1 நாள் மட்டும் பணிகாலமாக எடுத்துக் கொள்ளப்பட்டுள்ளது.”

5. The contention of the respondent is that the period for 05.10.2008 was regularized, but the petitioner contended that the respondent has not disbursed the monetary benefits to that effect. Therefore, this Court directing the respondent to treat 05.10.2008 as duty period and disburse the monetary benefits applicable to petitioner.

6. The second issue raised by the petitioner is that on 02.11.2008 also the respondent has treated as earned leave. However, the contention of the respondent is from that date already this Court has passed an order in Writ Petition in W.P.(MD).No.8963 of 2010 and the same was dismissed and against the order the writ petitioner has preferred writ appeal and the same is pending. Therefore, this Court is not considering the issue for 02.11.2008.

7. The third contention is from 15.04.2009 to 17.04.2009. The contention of the respondent is that the petitioner had applied for medical leave till 14.04.2009 but the petitioner had joined the duty on 18.04.2009. The Medical Board had not given any medical certificate but has given Fitness Certificate only on 17.04.2009. Thereafter the petitioner had applied for casual leave from 15.04.2009 to 17.04.2009 and the same was treated as earned leave. The petitioner had not raised any grievance about the same until his date of superannuation, but has challenged in the present writ petition. The petitioner was directed to proceed on deputation from Muthukulathur to Perunali section. In order to avoid the deputation order, the petitioner reported sick and applied medical leave. Since the petitioner had applied leave with medical certificate, the petitioner was granted medical leave. Thereafter on cancellation of the deputation order, the petitioner joined the duty, which would be clear that the medical leave itself was not bonafide and hence the respondents vehemently opposed to grant any relief to the petitioner. It is seen that the respondents have already granted medical leave till 14.04.2009, the Medical Board has granted fitness certificate on 17.04.2009 and the petitioner had joined duty on 18.04.2009, but for the period from 15.04.2009 to 17.04.2009 the petitioner had applied for casual leave. The petitioner submitted that since there was delay in granting fitness certificate, the petitioner could not join the duty. Therefore this Court is of the



considered opinion that the period from 15.04.2009 to 17.04.2009 ought to be regularized as casual leave and the respondents are directed to regularize the period from 15.04.2009 to 17.04.2009 and pay monetary benefits as applicable.

8. The next contention is for the period from 13.01.2009 to 16.01.2009. The contention of the respondent is that the petitioner had applied for medical leave and he has obtained medical fitness from the Medical Board on 12.01.2009. The petitioner ought to have joined duty on 13.01.2009, however the petitioner applied for casual leave and thereafter the petitioner had not submitted even any leave application for the period from 14.01.2009 to 16.01.2009, thereafter the petitioner reported for work only on 17.01.2009, hence the period from 13.01.2009 to 16.01.2009 was treated as Earned Leave. The contention of the petitioner that the respondent did not allow the petitioner to join the duty without fitness certificate, hence the 13.01.2009 to 16.01.2009 ought to be regularized. This Court is of the considered opinion that there was delay in granting the fitness certificate and hence the period from 13.01.2009 to 16.01.2009 ought to be treated as Causal Leave and regularize the same and disburse the monetary benefits for the said period.

9. The next contention is for the period from 14.11.2013 to 23.11.2013 to consider the said period as Medical Leave. The contention of the respondent is that the petitioner had been kept under police custody on 11.11.2013 and thereafter he was released on 13.11.2013. Even thereafter the petitioner did not report for duty and an application for covering the period by Medical Leave was submitted much later and the respondents are not convinced with the Medical Certificate and its genuineness is questionable and an order dated 19.10.2015 was passed declining the same. The said order was not challenged at all and hence prayed to dismiss the writ petition. Since the petitioner has submitted medical certificate subsequently, this Court is of the considered opinion that the period from 14.11.2013 to 23.11.2013 ought to be regularized as Medical Leave based on the Medical Certificate and disburse the monetary benefits.

10. The respondents are directed to pass orders for the period as stated supra within a period of four (4) weeks from the date of receipt of a copy of this order. The writ petition is partially allowed with the above directions. There shall be no order as to costs.

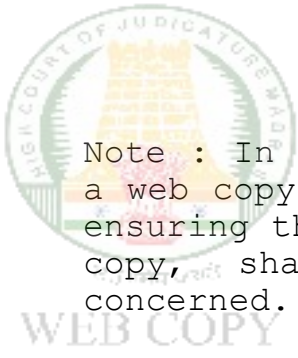
Sd/-

Assistant Registrar ()

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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

The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Paramakudi - 623 707,
Ramanathapuram District.

+1 CC to M/s.P. MALINI, Advocate (SR-17376[F] dated 08/04/2022)

+1 CC to M/s.K. KANTHAVEL - PET./PARTY IN P, Advocate (SR-19040[F] dated 18/04/2022)

W.P. (MD) .No.14101 of 2018

06.04.2022

USK/01.06.2022/4P/4C