



W.P.(MD) No.15887 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.15887 of 2018
and W.M.P.(MD).No.14218 of 2018

L.Meena Bai

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by its Principal Secretary,
Department of School Education,
Chennai – 600 006.

2.The Director of Elementary Education,
Directorate of Elementary Education,
DPI Campus, Nungambakkam, Chennai – 600 034.

3.The District Educational Officer,
Office of the District Education,
Thirumangalam,
Madurai District.

4.The Additional Block Education Officer,
Kalligudi,
Madurai District.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus, to call for the records pertaining to



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the impugned order in Na.Ka.No.1141/a5/2011, dated 28.10.2017, on the file of the Respondent No.3 and its consequential impugned order in Na.Ka.No. 702/A2/2017, dated 06.11.2017, on the file of the Respondent No.4 and quash the same as illegal and consequently, direct the Respondents to pay all monetary and consequential benefits considering the period of 18.02.2011 to 08.07.2012 as duty period and to restore the deducted earn leave and medical leave credits of the petitioner, within the time period stipulated by this Court.

For Petitioner : Mr.Aswin Rajasimman for
M/s.T.Lajapathi Roy

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

Heard the the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2.While the petitioner was served as a Headmistress at the Panchayat Union Middle School, S.Vellakulam, she was transferred to Odaipatti in Tirumangalam Taluk. Subsequently, on 18.02.2011, she was again transferred from Odaipatti to Servaikaranpatti. When this transfer was challenged before



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WEB C this Court in W.P.(MD).No.2331 of 2011, an order of interim stay was granted on 04.03.2011. Ultimately, in the final orders, this Court had directed the respondents to treat the period between 18.02.2011 to 08.07.2012 as duty period for all purposes. The relevant portion of the orders reads as follows:

“16.The learned counsel appearing for the petitioner submits that though the order of interim stay granted by this Court was for a period of six weeks, the respondent Nos.1 and 2 ought to have complied with the order until the same is vacated. Whatever may be the reason, the Department has to first comply with the order and thereafter, shall seek for vacating the interim order. In the said circumstances, it is submitted that the petitioner would be penalized by not regularizing the intervening period of transfer from 18.02.2011 to 09.07.2012. The learned counsel further submits that the petitioner is not at fault and if the intervening period is regularized, she could be satisfied as she has not joined at Veppankulam on 09.07.2012.

17.I find much force in the submissions made by the learned counsel for the petitioner. There was an order of Interim Stay granted by this Court on 04.03.2011 in favour of the petitioner and that is not vacated so far. Though the Interim Stay was for a



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period of six weeks, the Department could not take a technical stand that the said order of Interim Stay got expired after six weeks, as the matter is not listed after six weeks. Hence, the petitioner was forced to file the Contempt Petition. In the meanwhile, the second respondent chose to issue show cause notices without even waiting for the outcome of their vacate stay petition. Hence, I have no hesitation to quash the impugned show cause notices in Na.Ka.No. 1702/A2/10, dated 12.04.2011 and Na.Ka.No. 1702/A2/2010, dated 24.06.2011. Accordingly, W.P. (MD).Nos.4544 and 7452 of 2011 are allowed and the impugned show cause notices in Na.Ka.No. 1702/A2/10, dated 12.04.2011 and Na.Ka.No. 1702/A2/2010, dated 24.06.2011, are quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

18. On 28.06.2012, when the matters were taken up for hearing, the grievance expressed by the petitioner was that due to the pendency of the writ petition, she was not permitted to participate in the Counselling and it was submitted that the contempt petition could be closed, by directing the Department to permit the petitioner to participate in the



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WEB C this Court by the Judgment passed in W.A.(MD).Nos.124 to 126 of 2013 dated 06.02.2013. As against the order passed in writ appeals, Review applications have been filed in Rev.Aplc(MD).Nos.93 to 95 of 2013 and the same were rejected on 22.02.2018. In the present impugned orders dated 28.10.2017 and 06.11.2017, the respondents have treated the period of petitioner's absence between 18.02.2011 to 08.07.2012 as earned leave, unearned leave on private affairs and leave on loss of pay. Apparently, the aforesaid order, declining to treat the petitioner's period of absence between 18.02.2011 to 08.07.2012 as duty period is contrary to the orders passed in W.P.(MD).Nos.2331 of 2011 etc., dated 18.07.2011 and hence, cannot be sustained. Incidentally, in the impugned order, dated 06.11.2017, an observation has been made that the order itself would be subject to the final decision to be taken in the review applications. Now the Honourable Division Bench has also rejected the review applications on 22.02.2018. The reason assigned in the impugned orders cannot be sustained.

4. Accordingly, the impugned order in Na.Ka.No.1141/A5/2011, dated 28.10.2017, on the file of the third respondent and its consequential impugned



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order in Na.Ka.No.702/A2/2017, dated 06.11.2017, on the file of the fourth respondent are hereby quashed. Consequently, there shall be a direction to the third respondent herein to pass orders, in favour of the petitioner herein by treating the period of her absence between 18.02.2011 and 08.07.2012 as duty period for all purpose and consequently, extend all the service and monetary benefits for the said period. Such orders shall be passed atleast within a period of six weeks from the date of receipt of a copy of this order.

5.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order/ Non Speaking Order

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To

1.The Principal Secretary,
Department of School Education,
Chennai – 600 006.



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M.S.RAMESH,J.

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