



WEB COPY

W.P.(MD)No.20590 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.20590 of 2018

and

W.M.P. (MD)No.18331 of 2018

M.Ramasamy

... Petitioner

VS

1. The General Manager (Admin),,
Tamil Nadu Civil Supplies Corporation,
No.10, Tambu Swamy St, Keelpauk, Chennai.

2. The Managing Director
Tamil Nadu Civil Supplies Corporation,
No.12,Tambu Swamy Street,
Keelpauk, Chennai-10.

3. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Na.Ka.No.3/689/2017, dated 17/01/2018 which was confirmed by the 2nd respondent in proceedings No.AD2/5750/2018, dated 25/07/2018, quash the same and consequently, direct the respondents to reinstate the petitioner with all service benefits.

For Petitioner : Mr.N.Balamuralikrishnan

For Respondents : Mr.R.Saravanan
for Mr.P.Seetharaman

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 17.01.2018 which was confirmed by the second respondent in order dated 25.07.2018 with a consequential prayer to direct respondents to reinstate the petitioner with all service benefits.

2. The petitioner joined the service of the respondents Corporation as Seasonal Bill Clerk on 19.01.2009, then promoted to the post of Time Scale Bill Clerk on 24.12.2012 and then promoted as Junior Assistant. The respondent Corporation who is the procurement

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agency of paddy from the Agriculturist of the Delta Region. The contention of the petitioner is that his Brother-in-law, namely, Kumar was having business in Singapore fell ill due to some spinal cord ailments in March 2016. Since the petitioner who is the only available person to take care of him, the petitioner sought leave by making an application dated 15.03.2016 to the third respondent to grant permission to travel to Singapore and avail 30 months leave on Loss of pay. The third respondent, vide proceedings, dated 06.04.2016 informed the petitioner to produce certain documents and the same was also submitted by the petitioner on 25.04.2016. Thereafter, no further communications were received from the third respondent. Since the situation was very serious, the delay in granting leave has created some misunderstanding in the family. The petitioner's wife misunderstood that the petitioner is not inclined to help her brother. Due to this, the petitioner fell ill and he was advised to take medicines and to take rest. Thereafter, the petitioner applied leave for 30 days on medical ground from 11.05.2016 to 09.06.2016. Thereafter, the petitioner left to Singapore and his brother-in-law has underwent a Spine surgery on 12.03.2016 and was inpatient till 28.05.2016. Thereafter, the petitioner had taken care of his brother-in-law and returned to India on April 2017.

3. In the meanwhile, the third respondent has issued a notice directing the petitioner to appear before the Medical Board to prove his illness. Since the petitioner has not appeared, the respondents framed charges under chapter 5 Rule IV for imposing a major punishment and the charges for unauthorized absence from 11.05.2016, non-appearance before the Medical Board as per the letter, dated 10.06.2016, left to Singapore without any communication of his address and disobeying to the higher officials by going to Singapore before getting permission. The contention of the petitioner is that after returning from Singapore, on seeing the Charge Memo the petitioner submitted an explanation dated 18.05.2017. Thereafter, an enquiry was conducted and the petitioner has submitted an additional explanation to the charges on 16.08.2017. The third respondent, vide letter, dated 26.09.2017 sought opinion from the second respondent for passing final orders on the charges. The petitioner has submitted an explanation by explaining the situation, but the third respondent without considering his unblemished services has passed the impugned order dated 17.01.2018 by imposing the punishment of removal from service. The contention of the petitioner is that the respondents without considering the petitioner's application which was pending for more than two months has passed the impugned order. The petitioner submitted an appeal before the General Manager (Administration) on 12.02.2018 and the appeal was dismissed on 26.07.2018 confirming the punishment. Hence the present writ petition is filed.

4. The respondents have filed a counter affidavit stating that earlier the petitioner was appointed in Chennai North Region,

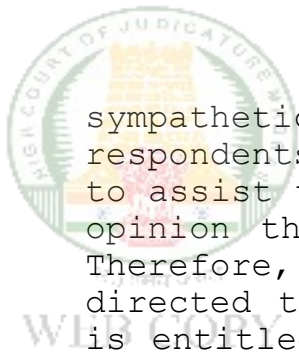


thereafter, transferred to Tanjavur Region as Clerk from 12.02.2014. Thereafter, the petitioner was promoted as Junior Assistant on 20.03.2015. The petitioner has submitted a leave application on 18.03.2016 and after scrutinizing the application vide letter, dated 27.04.2016, the respondents are directed to produce some relevant documents regarding the leave application. On 12.05.2016 the petitioner had submitted a leave application on medical ground stating that he was severely injured on his Chest due to Iron Rod for that the petitioner sought leave from 11.05.2016 to 09.06.2016 for 30 days. The reasons stated by the petitioner is contrary to the medical certificates, hence the petitioner was directed to appear before the medical board on 26.05.2016. In spite of several charges, the petitioner did not appear before the Medical Board. Therefore, a Charge Memo was issued and the show cause notice was sent through Registered post and the same was returned on 05.08.2016 with an endorsement the "The Receiver resides Foreign Country. Hence it returned to the sender". Therefore, appropriate actions were taken against the petitioner. After giving adequate opportunity, the petitioner was dismissed from service. The petitioner has not raised any valid ground and the petitioner has not taken prior permission before going to Singapore. Therefore, the respondents prayed to dismiss the writ petition.

5. Heard Mr.N.Balamuralikrishnan, Learned Counsel for the petitioner and Mr.R.Saravanan for Mr.P.Seetharaman for respondents.

6. On perusing the documents it is seen that the petitioner has applied for long leave on 15.03.2016 seeking permission to take leave for 30 months on loss of pay. The respondents have not acted upon. Therefore, the petitioner has submitted a leave application on 12.05.2016 by taking leave from 11.05.2016 to 09.06.2016. The contention of the petitioner is that the respondents have not acted on the leave application dated 15.03.2016 for loss of pay and left with no other option, the petitioner has submitted a leave application and has gone to Singapore to assist his brother-in-law who was unwell. The contention of the respondent is that for the long leave application, a letter was sent to the petitioner on 25.04.2016 to produce some relevant documents. But the contention of the petitioner is that the said application was not acted upon. Admittedly, the petitioner has submitted an application for a long leave and the reasons has also stated in the application that his brother-in-law was not well. The petitioner has also stated that because he could not get leave to assist his brother-in-law, his family members started fighting with the petitioner, therefore left with no other option he has left to Singapore.

7. This Court is of the considered opinion that the petitioner has submitted the leave application and the respondents ought to have been taken quick decision since the petitioner is seeking leave on medical grounds for his brother-in-law. The respondents without taking the reasons behind the application and without taking some



sympathetic view has delayed in processing the application. The respondents ought to have granted permission to travel to Singapore to assist the person who was unwell. This Court is of the considered opinion that the respondents ought to have acted sympathetically. Therefore, the impugned order is set aside and the respondents are directed to reinstate the petitioner into service. The petitioner is entitled to continuity of service but he is not entitled to any monetary benefits for the period of his absence. The respondents are directed to implement the order within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

jbr

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

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