



WP(MD)No.10019 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE G. CHANDRASEKHARAN**

W.P.(MD)No.10019 of 2017
and
W.M.P.(MD).No.7674 of 2017

P.Kesavan

... Petitioner

/vs./

- 1.The Director,
Social Defence Department,
Chennai-10.
- 2.The Deputy Director,
Social Defence Department,
Regional Office,
Madurai.
- 3.The Superintendent,
Government Children Home for Boys,
O.Siruvayal,
Karaikudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned charged memorandum issued by the third respondent in Memo No. 300/A1/2016, dated 08.09.2016, and quash the same as illegal and unconstitutional, consequently, direct the respondents to grant all service and monetary benefits to the petitioner.



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For Petitioner : Mr.D.Senthilkumar
for Mr.Veera Kathiravan
For Respondents : Mr.J.John Rajadurai
Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned charged memorandum issued by the third respondent in Memo No.300/A1/2016, dated 08.09.2016, and consequently, to direct the respondents to grant all service and monetary benefits to the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a Cook in the Government Children Home, Thanjavur. Thereafter, in the year 2013, he was transferred to the Government Children Home for Boys, O.Siruvayal, Karaikudi, Sivagangai District. During the year 2016, the third respondent has not allowed some orphan children to stay and study in the Government Children Home, O.Siruvayal and therefore, they filed a Writ Petition in W.P.(MD).No.9405 of 2016 and obtained interim order against the third respondent. The third respondent believing that the petitioner was responsible for filing this petition, developed enmity against the petitioner. The



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petitioner was not well and suffering from severe knee pain and therefore, he informed the third respondent that he needs his weekly off on 29.08.2016. Since the knee pain has not healed, he sought medical leave from 29.08.2016 to 05.09.2016 through registered post on 30.08.2016. Thereafter, the third respondent issued a show cause notice against the petitioner on 31.08.2016 and directed the petitioner to give explanation within three days. Before submitting his explanation, he was suspended from service by the third respondent on 01.09.2016. Thereafter, he filed a Writ Petition in W.P.(MD).No.18593 of 2016 challenging the suspension order, dated 01.09.2016. During the pendency of the above Writ Petition, the present charge memo was issued by the third respondent with an ulterior motive. Therefore, the present writ petition is filed.

3.It is further submitted by the learned counsel appearing for the petitioner that the petitioner had been taking treatment at Sundaram Medical Foundation, Chennai, during the year 2016. During August last and September first week, he visited again to Chennai for treatment. In this regard, he gave a detailed explanation on 23.09.2016 stating that the third respondent had harassed him by compelling him to attend his personal work and induced him to do the work,



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which are not in conformity with his work. Therefore, the charges framed against the petitioner have to be quashed.

4.In response, the learned Government Advocate appearing for the respondents submitted that the petitioner replied for only one day leave. Without submitting any leave application or obtaining proper permission, he remained unauthorizedly absent from 29.08.2016 to 05.09.2016. On the guise of taking medical treatment, he visited Chennai head quarters and submitted his transfer petition. His explanation is not true and therefore, the enquiry is allowed to be proceeded with.

5.Considered the rival submission and perused the records. It is seen from the charge memo, dated 08.09.2016, there are four charges framed against the petitioner. The first charge is that he informed about his intention to avail holiday for only one day on 28.08.2016. But remained absent till 31.08.2016 without any information and avoided the annual inspection scheduled on 29.08.2016. The second charge is that due to his unauthorized absence from 28.08.2016, the cooking of food to orphan students was affected. The third charge is that on the



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guise of medical leave, he visited the Director Office, Chennai, on 01.09.2016 and submitted his transfer petition. This visit was without prior permission from the office. The fourth charge is that when applying medical leave for 01.08.2016 to 07.08.2016, he submitted medical leave application for 01.07.2016 to 07.07.2016.

6.The learned counsel appearing for the petitioner has produced certain medical records to show that the petitioner has taken treatment at Sundaram Medical Foundation in the year 2016 and he has also produced the medical prescription dated 01.09.2016, issued by one Dr.K.Chandrasekar for taking treatment on 01.09.2016. Further, he has produced the prescription for taking Medical test at Malar X-Rays on 01.09.2016. He has also produced the medical records for undergoing the medical test at Thanjavur on 03.09.2016. He submitted his detailed explanation on 29.06.2016.

7.This Court is of the considered view that the charge memo has to be disposed of in the light of the explanation submitted by the petitioner. If the authority finds that the petitioner's explanation is satisfactory, it may accept the



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8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

22.08.2022

Index : Yes / No
Internet : Yes / No
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G. CHANDRASEKHARAN, J.

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Order made in
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and
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Dated:
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