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W.P.No.31481 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.31481 of 2012

G.Mariyappan

... Petitioner

Vs.

- 1.The District Collector,
Nagapattinam,
Nagapattinam District
- 2.The Private Secretary to
District Collector(Development),
Nagapattinam,
Nagapattinam District
- 3.The Commissioner,
Keezhaiyur Panchayat Union,
Nagapattinam District

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to pay the salary with continuity of service and pay protection leave period salary and salary for the month of January 2011 and Departmental increments and scale based increment as per GO.45/2011 based on the petitioner representation dated 10.11.2011.



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For Petitioner : No appearance

For Respondents : Mr.T.M.Rajangam,
Government Advocate

ORDER

This writ petition has been filed for direction to the respondents to pay salary with continuity of service and pay protection leave period salary and salary for the month of January 2011 and departmental increments and scale based increment as per G.O.No.45 of 2011.

2. The petitioner is now working as Junior Assistant in Kilvelur Panchayat Union. Earlier, he was transferred to Vedaranyam Panchayat Union. Therefore, the petitioner challenged the transfer order by way of writ petition before this Court in WP.No.7561 of 2011. The transfer order was set aside by this court. Thereafter, the respondents issued rejoining order to the petitioner in Kilvelur Panchayat Union to join as Junior Assistant. In between the transfer and rejoining period of ten months, the



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continuity of service and pay protection with salary were not granted to the petitioner. Therefore, the petitioner submitted representation.

3. On perusal of the counter filed by the third respondent revealed that after the order of transfer, he was relieved from duty on 31.12.2010. Even then, the petitioner failed to join duty in the Office of the Vedaranyam Panchayat Union where he was transferred to. The petitioner submitted leave application on 03.01.2011 requesting for earned leave for 5 days from 01.01.2011 to 07.01.2011 on medical ground excluding Saturday and Sunday. Since the petitioner was relieved from the Office of the second respondent, the leave application was sent to the Block Development Officer, Vedaranyam. The petitioner was directed to report duty before the Block Development Officer, Vedaranyam. Once again, the petitioner applied for extension of leave from 08.01.2011 to 20.01.2011 and again from 21.01.2011 to 04.02.2011. Therefore, the petitioner had willfully avoided the transfer and disobeyed the orders of the appointing authority by applying leave, that too in piecemeal manner.



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4. Thereafter, the leave application was referred before the medical board and after issuance of fitness certificate, the petitioner was directed to join duty by the letter dated 23.03.2011 issued by the second respondent. Even then, the petitioner did not report for duty till 20.07.2011. Admittedly, the petitioner after his relieving from Kilvelur Panchayat, he approached the Court and waited till final order passed by this Court without joining in the transfer post. That apart, the petitioner, being a probation in the superior service, is not entitled for more than 6 months at one time as per Rule 18(1) of the Tamilnadu Leave Rules. The petitioner was a probation in the cadre of Junior Assistant and as such, he is not entitled for medical leave and earned leave is restricted only for 30 days during the period of his probation. Therefore, there is no provision to treat the entire period of 6 months and 21 days as any kind of leave. As such, the prayer sought for in this writ petition cannot be considered and this writ petition is devoid of merits.

5. Accordingly, this writ petition is dismissed. There shall be no order as to costs.



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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

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Nagapattinam District
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Nagapattinam District
- 3.The Commissioner,
Keezhaiyur Panchayat Union,
Nagapattinam District
4. The Government Advocate,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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