



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.39491 of 2016

M. Sivagnana Sambandam

.. Petitioner

Vs.

Government of Tamil Nadu
Represented by its Principal Secretary
School Education Department
Fort St. George
Chennai – 600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records which culminated in issuing the order in GO (ID) No.271, School Education Department dated 07.08.2015 on the file of the respondent and to quash the same insofar as it relates to the direction to treat the period from 05.02.1986 to 05.04.1988 as extraordinary leave without medical certificate and consequently direct the respondent to treat the said period from 05.02.1986 to 05.04.1988 as extraordinary leave with medical certificate as per Fundamental Rule 81(c)(2).



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For Petitioner .. Mr. S. Mani

For Respondent .. Mr. V. Nanmaran, AGP

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus seeking records relating to GO (ID) No.271, School Education Department dated 07.08.2015 on the file of the respondent and to quash the same so far as it related to holding the period from 05.02.1986 to 05.04.1988 as extraordinary leave without medical certificate and direct the said period also to be treated as extraordinary leave with medical certificate in accordance with Fundamental Rule 81(c)(2).

2.The petitioner originally joined as Secondary Grade Assistant in the year 1974. He was conferred with selection grade in the year 1984. He applied for medical leave from 05.02.1986 to 05.04.1988. On 06.04.1998, after expiry of medical leave he applied for posting order, but the same was not granted. He was directed to appear before the Medical Board. Though he was prepared, he was not sent before the Medical Board. After a period of five years on 18.04.1993, he was permitted to join duty with effect from



19.04.1993. The petitioner had given a representation seeking regularization of the period on which he was on leave between 05.02.1986 and 05.04.1988 as well as the subsequent period from 06.04.1988 till actually joined duty on 18.04.1993. An order was also issued by the Assistant Elementary Education Officer at Trichy to regularize the period from 05.02.1986 to 18.04.1993. Thereafter, on the basis of such recommendation, the Government had issued GO (1D) No.74, Education Department dated 29.08.2004 holding that the period from 05.02.1986 till 18.04.1993 shall be treated as extraordinary leave without medical certificate.

3.Questioning that particular Government Order, the petitioner filed an application before the Tamil Nadu Administrative Tribunal. The application was subsequently transferred to this Court and was re-numbered as W.P.No.6959 of 2006. In the said writ petition, the following order was passed:

“In the result, the writ petition is allowed and impugned order stand quashed with direction to the respondent to treat the compulsory wait period between 06.04.1988 to 16.04.1993 as duty period with all consequential and monetary benefits. The amount to the



petitioner shall be sanctioned and disbursed to him within twelve weeks from the date of receipt of copy of this order.”

4.The period between 06.04.1988 when the petitioner reported for duty and 16.04.1993 when he was actually given posting was treated as duty period with all consequential and monetary benefits. But no orders were passed regularizing the service between 05.02.1986 to 05.04.1988. Consequent to the said order, the impugned Government order had been passed and this is questioned by the petitioner herein. In the impugned Government order, the period between from 05.02.1986 to 05.04.1988 was treated as extraordinary leave without medical certificate. The period from 06.04.1988 till 16.04.1993 was treated as compulsory wait. The petitioner is entitled for all monetary benefits between the period 06.04.1988 till 16.04.1993.

5.However, since even in the earlier writ petition no orders were passed with respect to the earlier period namely, from 05.02.1986 to 05.04.1988, that relief is sought in the present writ petition. But when that particular relief had not been granted even earlier, it would not be



appropriate on the part of this Court to enter into any discussion to regularize the services of the petitioner with respect to that particular period from 05.02.1986 to 05.04.1988. The petitioner is however entitled for all monetary benefits from 06.04.1988 till 16.04.1993 and that period must be treated as on duty and all benefits must be extended for that particular period. No further orders are required. The Writ Petition stands disposed of. No costs. If any proceedings are to be issued, the same shall be issued granting the benefits to the petitioner within a period of four months from the date of receipt of a copy of this order.

19.07.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
smv

To

The Principal Secretary
School Education Department
Fort St. George
Chennai – 600 009.



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C.V.KARTHIKEYAN,J.

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