



W.P(MD)No.5164 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5164 of 2023

A.Easwaran

... Petitioner

Vs.

1.The Superintendent Engineer,
Highways Department,
Construction & Maintenance,
Madurai.

2.The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Theni.

3.Kannan
The Assistant Divisional Engineer,
Highways Department,
Construction & Maintenance,
Theni,
Theni District.

4.Anusiya
The Junior Executive Engineer,
Highways Department,
Construction & Maintenance,
Theni District.

5.Ayyappan,



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The Superintendent,
Highways Department,
Construction & Maintenance,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.Se.Mu.Ka.No.723/2019/Aa3, dated 18.06.2021 on the file of the second respondent and quash the same and direct the second respondent to disburse the petitioner's salary for the period of 28.09.2019 to 12.03.2020 and consequently, direct the first respondent to conduct appropriate enquiry and to take appropriate disciplinary action as against the respondents 3 to 5 on the basis of the petitioner's representation dated 04.11.2022.

For Petitioner : Mr.K.R.Manimaran

For Respondents : Mr.T.Villavankothai
Additional Government Pleader for R1 & R2

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for R1 & R2. The fourth respondent is present in person before this Court.

2. The petitioner joined the department as Gang Mazdoor in the year 1997. The case on hand pertains to regularizing the period of absence from



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28.09.1919 to 12.03.2020. The petitioner states that he was constrained to be away from duty due to the reasons set out in the affidavit filed in support of the writ petition. However, the petitioner is giving up the allegations made personally against R3 & R4.

3. The stand of the official respondents is that the petitioner has not produced the medical certificate. This stand of the official respondents cannot be accepted. The petitioner's counsel has enclosed the medical certificate for the relevant period in the typed set of papers. My attention is also drawn to the endorsement found on the postal cover indicating that the third respondent had refused to receive the registered post. An official ought not to refuse any communication sent through RPAD.

4. Be that as it may, the impugned order rests on the sole ground that the petitioner has failed to produced the medical certificate. In my view, the petitioner deserves to be given one more opportunity. The petitioner is permitted to meet the second respondent in person in his office on 10.05.2023 at 11.00 a.m. The petitioner shall submit a fresh application for properly regularizing the said period of absence. The medical certificate shall also be produced. The second respondent shall thereafter enquire into the matter and



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pass an appropriate order. If the petitioner is having medical leave to his credit, the same shall be duly adjusted. It all depends on whether the petitioner has medical leave to his credit. The second respondent is directed to revisit the issue in the light of the observations made above.

5. The writ petition is disposed of accordingly. No costs.

28.04.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Superintendent Engineer,
Highways Department,
Construction & Maintenance,
Madurai.

2.The Divisional Engineer,
Highways Department,
Construction & Maintenance,
Theni.



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G.R.SWAMINATHAN, J.

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