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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 11192 of 2019

and

W.M.P.(MD)No.8552 & 8553 of 2019

N.Muthusamy

... Petitioner

Vs.

1. The Commissioner,
Department of Employment and Training,
Guindy,
Chennai- 600 032.
2. The Joint Director (Craftsman Training Scheme),
Department of Employment and Training (Training Wing),
Guindy,
Chennai – 600 032.
3. The Regional Director,
O/o.the Regional Joint Director Office,
Department of Employment and Training (Training Wing),
S.N.No.870/8, NGO 'B' Colony,
Near RTO Office,
Tirunelveli -7,
Tirunelveli District.



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4. The Principal,
Government Industrial Training Institute Pettai,
Tirunelveli – 627 010,
Tirunelveli District.

5. The Vice Principal,
III Shift,
Government Industrial Training Institute Pettai,
Tirunelveli – 627 010,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a *Writ of Certiorari*, calling for the records relating to the impugned order passed by the 1st respondent vide se.mu.annai.no.18594/aa.pa.2/2017, dated 16.04.2018 confirming the impugned order passed by the 3rd respondent vide his proceedings se.mu.annai.no.8579/pa.aa/2015-1 dated, 02.06.2017 and quash the same as illegal.

For Petitioner : Mr.H.Mohamed Imran, for
M/s.Ajmal Associates

For Respondents : Mr.M.Lingadurai,
Special Government Pleader

ORDER

This writ petition is filed challenging the impugned order, dated 16.04.2018 confirmed by the order of the 3rd respondent, vide his proceedings se.mu.annai.no.8579/pa.aa/2015-1 dated, 02.06.2017.



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2. Heard Mr.H.Mohamed Imran, for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents. Perused the material documents available on record.

3. The petitioner is an employee under the 4th respondent's Government Industrial Training Institute Pettai, Tirunelveli District. The allegation against the petitioner is that he has opted to do part time course without obtaining prior permission from the appropriate authorities. Initially, the respondents have imposed punishment of stoppage of increment for six months without cumulative. Against the said punishment, the petitioner has preferred an appeal and in the said appeal the punishment was modified as '*Censure*'. Because of the punishment of '*Censure*' the petitioner is not able to get promotion. Hence, the petitioner is before this Court.

4. The contention of the petitioner is that he has obtained prior permission from the authorities. In the petitioner's explanation for charge memo it



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has been clearly stated that the application itself can be forwarded only through the employer (through proper channel). The employer has to indicate the marks of the petitioner in the application and thereafter only it has to be forwarded. Therefore, this Court is of the considered opinion that the allegation against the petitioner that he has not obtained any prior permission from the higher authorities is erroneous.

5. The contention of the respondents is that the petitioner was working in the 3rd shift. If the petitioner continued his studies, it will affect the work. The said contention was refuted by the petitioner and submitted that the petitioner has obtained prior permission from the concerned authorities and from the 3rd shift he was posted to 1st shift, however, there was no formal orders for changing from 3rd shift to 1st shift. But, in the log book the petitioner and the concerned authorities have signed and also affixed the seal. From the above, it is made clear that the petitioner has continued his 1st shift only. Hence the allegation that due to petitioner's studies, the work was affected is not sustainable.



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6. Considering the facts and circumstances of the case, the impugned order passed by the respondents, dated 16.04.2018 is hereby quashed. The respondents are directed to consider the petitioner's case and grant promotion, if it is otherwise in order. The same shall be granted, within a period of six weeks from the date of receipt of a copy of the order.

7. With these observations and directions, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 11192 of 2019**

14.06.2023