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W.P.No.12592 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.12592 of 2015

R.Saravanan

.. Petitioner

Vs.

1. Director of Employment & Training,
Guindy,
Chennai-600 032.

2. Regional Joint Director of Employment & Training,
(Training), Chennai Region, Guindy,
Chennai-600 032.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus, calling for the records pertaining to the order passed by the 2nd Respondent in his Proceedings Se.Mu.Aa.No.695/Ni.1/14-1 dated 07-11-2014 and Na. ka.No.239/Ni. 1/15 dated 25-02-2015 and quash the same, and direct the Respondents to regularize the period from 11-06-2013 to 01-08-2013 as Unearned leave on Medical Certificate and confer all the consequential benefits.

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For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : Mr.Alagu Goutham
1 and 2

ORDER

Challenging the rejection of his request for treating his leave period of 52 days as medical leave with the medical certificate enclosed, the petitioner is before this Court.

2. The facts that gave rise to the above writ petition are as follows:

(i) The petitioner was originally appointed as a Junior Assistant in the Employment and Training Directorate, Training Wing, Chennai, on 13.03.1997 through the Tamil Nadu Public Service Commission. His services were regularized, and he was transferred to the Government Industrial Training Institute, Ambattur, Chennai, and promoted to Assistant on 10.08.2004. The petitioner was also given



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additional charges of two other sections where the work was very heavy. Therefore, he made a representation dated 19.04.2013 to the Deputy / Principal, Government Industrial Training Institute, Ambattur, Chennai 600 098 requesting him to allot the additional sections to another assistant. On receiving the above request, the respondents had passed an order transferring the petitioner to the Government Training Institute, Chengalpet and he was relieved from Ambattur on 13.06.2013.

(ii). Meanwhile, the petitioner had become very ill and had given a leave letter on medical grounds. He had applied for medical leave from 11.06.2013 to 30.06.2013 and extended it from 01.07.2013 to 01.08.2013. Since the leave had not been sanctioned, the petitioner requested the respondents to sanction the leave from 11.06.2013 to 01.08.2013 and enclosed a medical certificate along with the representation dated 02.08.2013. Despite the fact that the



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petitioner had medical leave to his credit, the impugned order rejecting the request has been issued. Challenging the same, the petitioner is before this Court.

3. The respondents have filed a counter affidavit *inter-alia*, contending that the petitioner has deliberately not attended the work to avoid taking charge at the Government ITI, Chengalpet. Meanwhile, the petitioner's transfer order to Chengalpet was cancelled and he was reposted to Government I.T.I., North Chennai on 26.07.2013 in which post he had joined on 02.08.2013. Therefore, the learned counsel would submit that even assuming that the petitioner was not ill, he should have submitted his leave application with necessary medical certificate within 7 days of going on leave. In the instant case, the leave application has been submitted after a lapse of 52 days from the date the petitioner filed for medical leave. The learned Government Advocate appearing for the respondents would



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also draw the attention of this Court to Rule 9A under FR74 with particular reference to Rule 9A(i)(c) and submit that the petitioner ought to have obtained the report of the medical committee.

4. Heard the learned counsel on either sides and perused the materials available on record.

6. The grievance of the petitioner is that despite having medical leave to his credit and possessing a valid medical certificate, the request has been turned down solely on the ground that it has been submitted belatedly and that the petitioner had not appeared before the medical board. It was argued that the petitioner had taken leave solely with the intent of avoiding taking charge at the Government I.T.I.Chengalpet. However, it is seen that the respondents have themselves condoned this action of the petitioner by cancelling his transfer to the Government I.T.I, Chengalpet and transferring him to



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the Government I.T.I., North Madras in which post the petitioner has taken charge. A reading of Rule 9A under FR 74 clearly indicates that the onus is on the employer to recommend the case of the petitioner to the medical committee before whom the petitioner was to thereafter appear. However, in the instance case, the respondents have not bothered to refer the matter to the medical committee and are now attempting to take advantage of their omission.

5. Considering the fact that the petitioner had medical leave to his credit and also taking note of the fact that the respondent have themselves condoned the act of the petitioner in not taking charge at the Government I.T.I, Chengalpet, there is no merit in the impugned order and the same is therefore set aside. Accordingly the writ petition is allowed. There shall be no order as to costs.

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Index : Yes/No



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Internet : Yes
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To

1. The Director of Employment & Training,
Guindy, Chennai-600 032.

2. The Regional Joint Director of Employment & Training,
(Training), Chennai Region, Guindy,
Chennai-600 032.



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P.T.ASHA, J.

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