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Writ Petition No.22499 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 8/1/2025

C O R A M

THE HONOURABLE Mr.JUSTICE VIVEK KUMAR SINGH

Writ Petition No.22499 of 2021

a n d

W.M.P.No.23719 of 2021

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Petitioner

Vs

1. The Chief Educational Officer
Tiruvarur District
Tiruvarur.

2. The Head Master
Government High School
Kollapuram
Tiruvarur District.

3. The Head Master
Government High School
Menangudi
Tiruvarur District.

4. The Head Master
Higher Secondary School
Kaduvangudi
Tiruvarur District.

...

Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India

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praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of the second respondent vide Na.Ka.No.109/2021-2022 dated 21/9/2021 and quash the same and consequently, direct the second respondent to pay the leave salary for the period from 3/4/2018 to 12/11/2018 within the stipulated time.

For petitioner ... Mr.T.Muruganantham

For respondents ... Ms.Akila Rajendran
Government Advocate

ORDER

This writ petition has been filed to quash the proceedings of the second respondent dated 21/9/2021 and consequently, direct the second respondent to pay the leave salary for the period from 3/4/2018 to 12/11/2018 within the stipulated time.

2. Brief facts which are necessary for the disposal of the writ petition are as follows:-



On 6/8/1997, the petitioner was appointed as Record Clerk in Nannilam Boys Higher Secondary School, Nannilam, on compassionate ground. In the year 2007, he was promoted as Lab Assistant and worked in Kodavasal Higher Secondary School, Kodavasal and in 2009, he was promoted as Junior Assistant and served in Peralam Boys Higher Secondary School, Peralam. During 2011, the petitioner was transferred to fourth respondent School and he worked till 31/1/2018. On deputation, from 1/2/2018, he has been working in third respondent School as Junior Assistant till 28/3/2018. Due to illness, he applied for medical leave from 29/3/2018. On 2/4/2018, through his relative, he has sent the medical leave letter to the third respondent, but the same was refused. After recovery, when he approached the third respondent to submit the medical leave, on 20/4/2018, he was asked to join duty in fourth respondent School. Third respondent refused to accept the medical leave letter. Since there was summer holidays from 21/4/2018, the petitioner had approached the fourth respondent on 1/6/2018 to submit his medical leave application, but the fourth respondent, refused to accept the same.

3. Thereafter, the petitioner had sent a representation on 17/7/2018 to



the first respondent. Since no action was taken, the petitioner was constrained to file W.P.No.21256 of 2018 and vide, order dated 21/8/2018, this Court had directed the first respondent to dispose of the representation of the petitioner within two weeks from the date of the said order. On 9/11/2018, the first respondent had transferred the petitioner from Government Higher Secondary School, Kadavankudi to Government Higher Secondary School, Eravancherry. On the request made by the petitioner, he was transferred to the second respondent School.

4. The petitioner was not given salary for the period from April 2018 to 13/11/2018. Hence, gave a representation to the second respondent on 20/9/2021 to regularise the service and pay salary from 1/4/2018 to 13/11/2018, but the second respondent, vide, order dated 21/9/2021, rejected the request stating that he was absent from 3/4/2018 to 12/11/2018. Being aggrieved, the petitioner has come before this Court by way of a present writ petition.

5. The Chief Educational Officer, Thiruvavarur has filed a counter affidavit, wherein it is stated that the guidelines issued in G.O.Ms.No.411 Personnel and Administrative Reforms Department dated 5/4/1980 and



G.O.Ms.No.8 Personnel and Administrative Reforms Department dated 19/1/2015, unearned leave on medical certificate cannot be entertained while on transfer. If the petitioner has got any doubt over the cancellation of diversion and posting at Government High School, Kaduvangudi, petitioner should have approached the first respondent on the very same day or on the next day. Without doing so, he has availed the vacation period from 21/4/2018 and tried to join duty on 1/6/2018.

6. Heard Mr.T.Muruganantham, learned counsel for the petitioner and Ms.Akila Rajendran, learned Government Advocate for the respondents.

7. The learned counsel appearing for the petitioner would submit that due to the irresponsible action of the respondents, petitioner and his family members are put to irreparable loss.

8. The learned Government Advocate appearing for the respondents would submit that the job regularisation and probationary period have not been completed by the petitioner. Moreover, the eligible leave in his leave account has been fully completed. Since the leave period was not regularised, possibility of duty period salary will not be paid to the



individual.

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9. Perused the materials available on record.

10. If the third respondent has refused to receive the leave application, it is just and proper on the part of the petitioner to sent his leave application to the first respondent. Till the vacation period is over, the petitioner was keeping quite and he made the complaint only on 19/7/2018. When the petitioner has applied for unearned leave on medical certificate, he ought to have rejoined duty in the Government High School, Kaduvangudi, on 20/4/2018. Without doing so, he has availed the vacation period from 21/4/2019 and joined duty on 1/6/2018.

11. To avoid joining in the Government High School, Kaduvangudi, the petitioner has applied for medical leave and stayed away from duty. As per the records, the petitioner was absent from 2/4/2018 to 13/11/2018. In such a view of the matter, there is no justification on the request of the petitioner seeking for regularising the period from 2/4/2018 to 13/11/2018 and for sanction of salary for those unauthorised absence from duty and hence, the order passed by the second respondent is sustainable both on law



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and on facts.

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12. In the result, this writ petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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Index: yes/No

Neutral Citation: Yes/No

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VIVEK KUMAR SINGH,J



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