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W.A No. 2692 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2692 of 2025

AND

CMP.No. 21667 of 2025

1. Governmenr of Tamil Nadu

Rep by its Principal Secretary to Government

Health and Family Welfare (B1 Department)

Secretariat, Fort St.George,

Chennai-600009.

2.The Director of Medical and Rural Health Services

O/o. the DMS

DMS Complex, Teynampet,

Chennai-600006.

3.The Joint Director of Health Services,

'E' Block, 3rd Floor,

Collectorate Complex,

Ranipet, Ranipet District.

..Appellants



W.A No. 2692 of 2025

Vs

Dr.K.Karunakaran

S/o. V.Krishnamurthy

..Respondent

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 20.03.2024 passed in W.P.No. 7209 of 2024.

For Appellants: Ms.M.Sneha, Special Counsel

For Respondents : Mr. Balan Haridass

JUDGMENT

(HEMANT CHANDANGOUDAR, J.)

This intra Court appeal assails the order dated 20.03.2024 passed by the learned Single Judge in W.P.No. 7209 of 2024. In the said order, the request made by the petitioner to take in to account of the period of extraordinary leave for the purpose of promotion, seniority, leave and increment in terms Rule 21 of the Tamil Nadu Study Rules came to be rejected and directions given to the appellant to extend the said benefit to the writ petitioner.



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2. The writ petitioner/respondent herein while working as contract medical consultant was permitted to pursue his diploma in D.Ortho Course at Mahatma Gandhi Medical College, Puducherry as a private candidate. The writ petitioner was granted extraordinary study leave vide order dated 18.10.2013, however without pay and allowances for a period of two years.

3. After completion of D.Ortho, he resumed duties on 01.05.2014 and posted in ESI hospital, Vellore. The total period of leave was 1 year 8 months and 16 days. The Writ petitioner asserts that on completion of eight years of continuous service as Assistant Surgeon, the candidate would be eligible for promotion to the post of Senior Assistant Surgeon and after completion of 15 years of continuous service, they would be eligible for promotion to the post of Civil Surgeon. He further asserts that the appellant ought to have promoted within effect from 19.06.2016 to the post of Senior Assistant Surgeon and promotion to the post of Civil Surgeon from 18.06.2021. However, the period of extraordinary leave of 1 year 8 months 16 days was not included while calculating the service period of the petitioner, which necessitated the petitioner, to file the writ petition. The learned Single Judge vide order dated



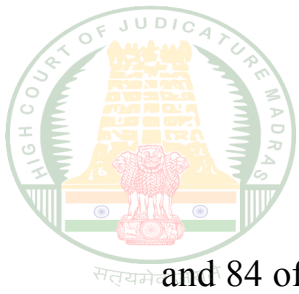
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20.03.2024 quashed the impugned order therein, passed by the 1st respondent therein and directed to take into account the period of 1 years 8 months and 16 days for the purpose of promotion, seniority, leave and increment and also regularisation of service. Aggrieved by the said order of the learned Single Judge, the State has preferred the present writ appeal.

4. Ms. M.Sneha, learned Special counsel appearing for the appellant submitted that the petitioner is not entitled for counting of his study leave for the purpose of promotion, pension and seniority and for increment as his admission to D.Ortho Course was not as in service candidate but as a private candidate and the admission to the college concerned was outside the State of Tamil Nadu. She further submitted the leave granted to the writ petitioner was not a study leave under the Tamil Nadu Study Rules 965 but as extraordinary leave, therefore the petitioner is not entitled for the relief sought in the writ petition and therefore, the impugned order passed by the learned Single Judge is erroneous and liable to be set aside.

5. Mr. Balan Harida, learned counsel for the respondent would submit that in terms of Rule 21 of Tamil Nadu Study Leave Rules 1965 r/w Rule 18



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and 84 of the Fundamental Rules, the petitioner is entitled for counting of study leave for promotion and pension etc., therefore, the learned single judge after considering the said Rules in proper prospective, had directed the appellant herein to extend the benefits as sought in the writ petition. Therefore, the impugned order passed by the learned Single Judge is perfectly valid and does not require any interference by this Court.

6. We have heard submissions made by the learned counsel for the parties concerned and perused the materials available on record.

7. Before delving into the issue on hand, it is necessary to extract the Rule 21 of Tamil Nadu Study Leave Rules 1965 r/w Rule 18(2) and 84 of the Fundamental Rules.

Rule 18 (2). Availing long leave at a time who has completed 5 years :

Except on medical certificate or study leave under Rule 84 no Government servant (Permanent or Approved Probationer), who has completed five years of service, shall be granted leave of any kind for a continuous period exceeding one year at any one time.



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Leave may be granted to Government servants, on such terms as the Government may, by general order prescribe, to enable them to study scientific, technical or similar problems or to undergo special courses of instruction. Such leave shall not be debited against the leave account.

Rule 21 of Tamil Nadu Study leave Rule 1965 reads thus;

21. Counting of study leave for promotion, pension, seniority, leave and increments.-

(1) Study leave shall count as service for promotion, pension and seniority. It shall also count as service for increments as provided in Rule 26 of the Fundamental Rules.

(2) the period spent on study leave shall not count for leave.

9. A conjoint reading of the aforesaid rules indicates as follows;

1. As per Rule 18 (2) of Fundamental Rules, the government servant (Permanent or Approved Probationer), who has completed five years of service, is entitled to be granted leave of any kind for a continuous period exceeding one year at any one time.



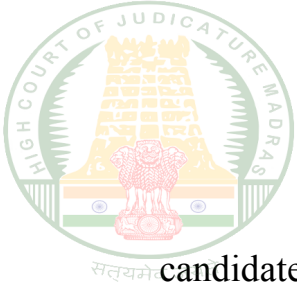
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2. Rule 84 of Fundamental Rules specifically states that a government servant who has been granted leave for scientific, technical or similar problems or to undergo special courses of instruction. Such leave shall not be debited against the leave account.

3. Rule 21 of the Tamil Nadu Study leave Rules 1965 provides for counting of leave for promotion, pension and seniority etc., as provided under Rule 26 of the Fundamental Rules.

10. In the instance, the writ petitioner had admittedly completed five years of service, and by exercising his power under Rule 21 of the Tamil Nadu Study Leave Rules, 1965, the writ petitioner was granted extraordinary leave to pursue the D.Ortho course at Mahatma Gandhi Medical College, Puducherry. The study leave granted to the writ petitioner was strictly under the provisions of the aforesaid Rules, and there are no separate provisions or any other Government Order governing the grant of such leave. The aforesaid Rules do not make any distinction between a Government servant who has secured admission in a college within the State of Tamil Nadu as an in-service candidate and a Government servant who has taken admission as a private



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candidate in a college outside the State of Tamil Nadu. In the absence of any provision restricting the applicability of the Rules only to admissions made within the State of Tamil Nadu as in-service candidates, the writ petitioner cannot be denied the said benefit, more so when Rule 84 of the Fundamental Rules specifically stipulates that study leave shall not be debited against the leave account, and Rule 21 of the Tamil Nadu Study Leave Rules, 1965 specifically provides that study leave shall be counted as service for the purpose of promotion, pension, seniority, etc.

11. In light of the foregoing discussion, we have no hesitation in holding that the writ petitioner/respondent herein is entitled for counting the study leave for the promotion, seniority etc., and the study leave cannot be debited to the leave account of the writ petitioner/respondent herein. The learned Single Judge after applying the aforesaid provisions has rightly passed the impugned order and in our view, in the absence of any illegality or infirmity, the impugned order dated 20.03.2024 passed by the learned Single Judge does not warrant any interference.



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12. In the result, the writ appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs. The writ petitioner/respondent undertakes not to take any coercive steps to implement the impugned order passed by the learned Single Judge for a period of four weeks.

(R.S.K. J.,) (H.C. J.,)

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