



W.A.No.4174 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 06.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR
AND
THE HONOURABLE MR. JUSTICE C. SARAVANAN

W.A.No.4174 of 2019

S.Rajasekaran

... Appellant

Vs.

1.The Joint Director,
Government Stationery and Printing Department,
Commissionerate of Stationery and Printing
110, Anna Salai,
Chennai - 600 002.

2.The Assistant Director,
Government Stationery Stores,
32, Rajaji Salai,
Chennai - 600 001.

3.The Branch Manager,
Government Press,
Pudukottai - 1.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.06.2011 in W.P.No.22010 of 2010 on the file of this Court.



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For Appellant : Mr.T.C.Sajith Babu
and M/s.Selvalakshmi

For R1 to R3 : Mr.G.Nanmaran
Special Government Pleader

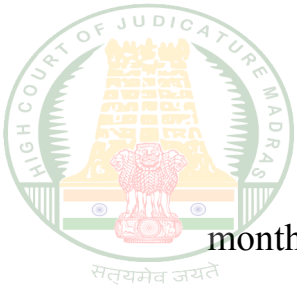
J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Writ Appeal is preferred as against the order of the learned Single Judge dated 24.06.2011 dismissing the writ petition filed by the appellant in W.P.No.22010 of 2010 challenging the order of dismissal dated 22.04.2010.

2.Brief facts that are necessary for the disposal of this Writ Appeal are as follows :

2.1.The appellant was appointed as Mazdoor on compassionate grounds on 16.08.1993. His services were regularised later. Due to administrative reasons, the appellant was transferred to Government Branch Press, Pudukottai. He was relieved from duty on 30.04.2005 and he joined duty at the 3rd respondent office on 07.05.2005. After working for three



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months, the appellant absented himself from duty from 01.08.2005 without prior intimation. Hence, a charge memo was given to the appellant for his unauthorised absence by the 3rd respondent on 14.09.2005. The appellant did not give any reply to the charge memo. Therefore, the 3rd respondent passed an order on 24.07.2006 imposing a punishment of stoppage of increment of the appellant for a period of six months without cumulative effect.

2.2.Even thereafter, the appellant did not join duty and hence, a further charge memo under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, was issued against the appellant. Even this time, in response to the communication asking for his explanation, the appellant did not submit his response or explanation to the charge memo, instead, he requested the respondents to permit him to join duty. The appellant was also permitted to join duty by communication dated 27.10.2007 without prejudice to the disciplinary proceedings initiated against the appellant as per the second charge memo. Despite several reminders to the appellant, he did not join duty.



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WEB COPY 2.3. Therefore, an Enquiry Officer was appointed on 19.03.2009. The appellant attended the enquiry and gave oral explanation. The Enquiry Officer found that the appellant was guilty of charges levelled against him. Thereafter, the appellant was directed to give his further explanation. Since there was no reply, the Joint Director of Stationery and Printing, Chennai, sent a memo dated 26.10.2009 calling upon the appellant to appear for personal hearing. The appellant did not even appear for the personal hearing.

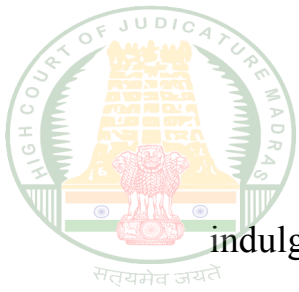
2.4. Therefore, another memo dated 01.12.2009 was issued to the appellant asking to appear before the Appointing Authority namely, the Joint Director. Thereafter, the appellant was removed from service from the date of his absence, i.e., on 01.08.2005 vide order dated 22.04.2010. It is stated in the said order that, since the appellant has absented himself for more than five years and he did not report for duty despite several opportunities being given, it is appropriate to remove the appellant from service.



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WEB COPY 3.The appellant filed the writ petition in W.P.No.22010 of 2010 challenging the order of dismissal, dated 22.04.2010, mainly on the ground that he was illegally transferred and the appellant, being a low paid employee, was treated unfairly and therefore, the order of termination is illegal. It was also contended that no prior opportunity was given to the appellant before passing the impugned order.

4.Though several judgments were relied upon by the learned counsel for the writ petitioner, the Writ Court held that the writ petitioner, who never had any intention to join at the transferred place, cannot be shown any indulgence merely because he was a low paid employee. When the petitioner had absented himself unauthorisedly and has no explanation for his unauthorised absence, the learned Single Judge held that the termination of the appellant from service, is perfectly in order. The learned Single Judge, relying upon the judgment of the Hon'ble Supreme Court in *I & T Komatsu Ltd. v. N.Udayakumar* reported in *2008 (1) SCC 224*, wherein, it has been held that the unauthorised absence is a serious misconduct and no

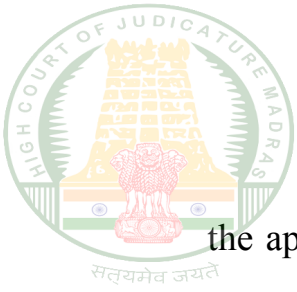


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indulgence can be shown, and also placing reliance on a few other judgments of this Court and Hon'ble Supreme Court for the proposition that expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability, dismissed the writ petition finding no merits in the writ petition.

5.The appellant/writ petitioner has challenged this order in the writ petition before this Court reiterating almost same grounds that were urged before the Writ Court. Learned counsel appearing for the appellant submitted that the order of dismissal is passed after a period of five years which suffers on account of delay and laches. He contended that the order of punishment is disproportionate to the charges and hence, order of dismissal is illegal. The learned counsel further submitted that the appellant being employed as a Mazdoor was unable to live in Pudukottai with a meagre salary of Rs.3,000/- and that the Disciplinary Authority and the Writ Court failed to consider his poor economical background. For the first time,



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the appellant also tried to explain the reasons for his unauthorised absence before this Court in the memorandum of grounds. Learned counsel for the appellant also submitted that the appellant should be reinstated, taking a lenient view on the appellant's financial and other constraints.

6.This Court is unable to countenance any of the submissions of the learned counsel for the appellant on the admitted facts. The appellant though has joined duty in the transferred place and worked for three months, absented from duty from 01.08.2005. Despite imposing a punishment of stoppage of increment for a period of six months by an order dated 24.07.2006, the appellant did not join duty even thereafter. Since the appellant absented himself from duty even after the punishment for unauthorised absence in 2005, he has committed serious misconduct of continuously being absent. Despite permission was granted to the appellant to join duty without prejudice to the pendency of disciplinary proceedings, the appellant did not join duty. It was thereafter, Enquiry Officer was appointed on 19.03.2009. Even after giving sufficient opportunity to the appellant, the appellant did not appear before the Disciplinary Authority.



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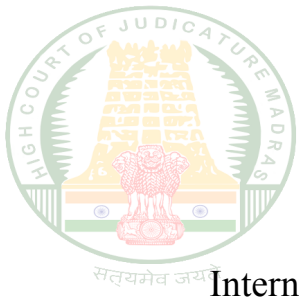
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Therefore, in view of the indifferent and callous attitude of the appellant, the Disciplinary Authority has no other option but to terminate the services of the appellant for his serious misconduct. This Court is unable to appreciate or consider any of the grounds raised by the appellant, having regard to the serious misconduct and insubordination of the appellant. On facts, the unauthorised absence is for a period of about five years and no explanation is offered. It is pertinent to mention that the appellant did not challenge the order of transfer at any point of time by way of a writ petition. Therefore, this Court finds absolutely no merit in the Appeal, and the order of dismissal is perfectly valid. Further, having regard to the principles reiterated by the Hon'ble Supreme Court and this Court in a catena of judgments, the order of the learned Single Judge giving sound reasons while dismissing the writ petition, warrants no interference.

7.Hence, this Writ Appeal is dismissed. No costs.

(S.S.S.R., J.) (C.S.N., J.)
06.03.2025

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Internet : Yes
Index : Yes
Neutral Citation : Yes

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