
(2008) 03 MAD CK 0025

In the Madras High Court

Case No : Writ Petition No. 19019 of 2006, M.P. No's. 1 and 2 of 2006 and M.P. No. 1 of 2007

Dr. V. Rajkumar

APPELLANT

Vs

The Registrar, Tamil Nadu Veterinary and Animal Sciences University, The Director, Central Institute for Research on Goats, The Administrative Officer, Central Institute for Research on Goats and The Dean, Madras Veterinary College

RESPONDENT

Date of Decision : 12-03-2008

Acts Referred:

Agricultural Research Service (A.R.S.) Study Rules — Rule 7(2)

Citation : (2008) 03 MAD CK 0025

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : S.M. Subramaniam, for the Appellant; M.T. Arunan, for the Respondent

Final Decision : Allowed

Judgement

K. Chandru, J.—Heard the arguments of Mr. S.M. Subramaniam, learned Counsel appearing for the petitioner and Mr. M.T. Arunan,

learned Counsel appearing for the respondents 2 and 3 and have perused the records.

2. In this writ petition, the petitioner challenges the order dated 09.5.2006 passed by the third respondent as well as the consequential order dated

09.6.2006 passed by the fourth respondent and also seeks for a direction to the respondents for permitting the petitioner to complete his Ph.D.

Course in the first respondent University.

3. The petitioner was working as a Scientist in the Central Institute for Research on Goats under the control of the second respondent. He

submitted that his application to do his Ph.D. Course in Meat Science and Technology in the first respondent University. His application was duly forwarded and he wrote the Entrance Examination and got admission. Based upon the admission, he applied for study leave for undergoing the said course.

4. The petitioner was granted study leave by the respondents 2 and 3 vide order dated 14.10.2005. It was stated that he should submit his six monthly reports of his progress at work and studies through his guide and he should also submit the certificate of examination passed or special course of study undertaken by him. Other than that, he was also informed that all other terms and conditions shall be in terms of the Agricultural Research Service (A.R.S.) Study Rules and the letter dated 28.01.2004 issued by the Director (Personnel) of Indian Council for Agricultural Research [for short, "ICAR"], New Delhi. The petitioner, pursuant to the grant of study leave, joined the said course. The petitioner executed a bond as requested by the respondents and also informed the respondents 2 and 3 about his joining the research course. He also submitted his first six monthly report by a letter dated 18.4.2006.

5. It is stated that when he went on study leave, he did not complete the formalities prescribed in terms of the study leave Rules. Though he had executed a service bond and also gave two sureties, there was no response from the petitioner with reference to the security of immovable properties or a Fidelity Bond of an Insurance Company or a guarantee from a scheduled Bank. Therefore, it was contended that he was illegally pursuing his studies and when this fact was brought to the notice, by an order dated 09.5.2006, the petitioner was informed that the grant of study leave should be cancelled and he was directed to report for duty immediately. The petitioner sent an affidavit dated 06.6.2006 stating that he had no assets of his own to give any security and, therefore, he gave a personal bond that he will rejoin his employer and serve for the betterment of the institution.

6. In the meanwhile, the first respondent, upon receipt of the impugned order, directed the petitioner to comply with all the formalities for availing the study leave. It is, at this juncture, the petitioner filed the present writ petition. Notice of motion was ordered on 22.6.2006 and interim stay was

granted, which was subsequently extended. It was only when the respondents 2 and 3 filed a petition in M.P. No. 1 of 2007 to vacate the interim

order and when the same was listed, with the consent of the parties, the main writ petition itself was taken up for hearing.

7. Mr. M.T. Arunan, learned Counsel appearing for the respondents 2 and 3 contended that the leave Rules are governed by the Study Leave

Regulations 1991 framed under Bye-law 23 of the ICAR Society and Rule 7(2) reads as follows:

In addition to executing a bond as aforesaid the scientist shall have to provide two sureties when study leave is granted to him on full pay and one

surety when study leave is granted to him on half pay or no pay and give security of immovable property to the satisfaction of the organisation of a

Fidelity Bond of an Insurance Company or a guarantee by a Scheduled Bank. The sureties furnished should be acceptable to the organisation.

Where two sureties or one surety, as the case may be, provided by the scientist are those who are permanent scientists of the institution to which

the scientist belongs, the organisation may, in its discretion waive the additional requirement of getting security of immovable property or a Fidelity

Bond of an Insurance Company or a guarantee by a Scheduled Bank. The surety clause shall form part of the study leave bond and the persons

giving surety shall be liable to pay to the organisation the amount recoverable from the Scientist concerned on his failure to fulfil the obligations of

the bond.

He further submitted that when the petitioner had not fulfilled the conditions, there was no question of continuing the study leave.

8. Per contra, Mr. S.M. Subramaniam, learned Counsel appearing for the petitioner submitted that as the petitioner has given a personal bond as

he does not possess any immovable properties, he cannot be asked to do the impossible.

9. Considering the rival submission, it is noted that the petitioner was duly relieved to study in the first respondent University and he had also joined

the said University and has been pursuing ever since the date of joining, viz., 17.10.2005 and for more than 2-1/2 years, he had done his research

work. Even at the time of filing of the petition, the petitioner had undergone 9 months in the Ph.D. Course and he had two more years to go. At this

advanced stage, if he is asked to go back, the entire academic work will go waste for the benefit of no one. Even assuming that there was any

infraction in the leave Rules, the defect pointed out is only a minor one. The respondents, taking advantage of the same, cannot deny the leave

itself. In any event, when the petitioner is not in possession of any immovable properties and when he expressed his inability to give any Fidelity

Bond, but, however, has provided a personal bond, the respondents can always accept the same and regularise his leave. But recalling his service

at this stage, that too, for a minor infraction of the formality to be complied with under the Rule, is really unjustified. It is not as if the studies

undertaken by the petitioner is totally alien to the second respondent and if he comes back with the research experience, it will only enhance the

quality of work of the petitioner.

10. The contentions raised by the petitioner merit acceptance. Under these circumstances, the action of the respondents 2 and 3 in cancelling the

study leave granted to the petitioner is totally unjustified. Accordingly, the writ petition will stand allowed and the impugned orders are set aside.

The petitioner is permitted to complete his Ph.D. course in the first respondent University. But, however, the petitioner is directed to comply with

the undertaking given by him vide his affidavit dated 06.6.2006 to the second respondent in letter and spirit. However, the parties are directed to

bear their own costs. Consequently, connected Miscellaneous Petitions are closed.