
(1997) 04 SC CK 0105

In the Supreme Court Of India

Case No : Civil Appeals No's. 3138-3140 of 1997

Government of Tamil Nadu and Another

APPELLANT

Vs

K. Rajaram Appasamy

RESPONDENT

Date of Decision : 21-04-1997

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1953 — Rule 17

Citation : AIR 1997 SC 2439 : (1997) AIRSCW 2356 : (1997) 5 JT 178 : (1997) 2 MLJ 80 : (1997) 4 SCALE 3 : (1997) 5 SCC 57 : (1997) SCC(L&S) 1117 : (1997) 3 SCR 886 : (1997) 4 Supreme 642

Hon'ble Judges : K. Ramaswamy, J;D. P. Wadhwa, J

Bench : Division Bench

Advocate : V. Krishnamurthy Adv, for the Appellant; Dr. V. Gourishankar and S. Rajappa, for the Respondent

Final Decision : Allowed

Judgement

K. Ramaswamy and D.P. Wadhwa, JJ.—Leave granted.

2. We have heard learned Counsel for the parties.

3. These appeals by special leave arise from the Order dated May 14, 1996 passed by the Tamil Nadu Administrative Tribunal, Madras in O.A. Nos. 2354, 2477 and 6373 of 1993. The admitted facts are that the respondent was working as a doctor. He proceeded on leave and made a representation on June 27, 1987 with regard to his posting. He did not report for duty for five years from May 1, 1982. A departmental enquiry came to be conducted against the respondent, under Rule 17(b) of the Tamil Nadu Services (Discipline and Appeal) Rules. The competent authority removed him from service on the ground that the respondent was found to be unauthorisedly absent from duty for five years. The Tribunal in its impugned order set aside the order of his removal from service and directed to pay 50% of the back wages till the date of filing of the original application and full back wages from the date of filing of the original applications till the date of reinstatement. This Court issued notice confined to the question of

respondent's entitlement to back wages. It would be obvious that the respondent did not choose to join the duty for five years. There is nothing on the part of the State Government which prevented the respondent from attending to his duties. Under these circumstances, the Tribunal is wholly wrong in its direction to the appellants to pay 50% of the back wages from the date of his absence till the date of filling of the original application and back wages thereafter till his reinstatement. Accordingly, the appeals are allowed and the direction to pay back wages stands set aside. No costs.