

(2007) 09 MAD CK 0163

In the Madras High Court

Case No : Writ Petition No's. 22330 of 2004 and WP.MP. No. 10663 of 2006

M. Subramaniam

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 10-09-2007

Acts Referred:

Tamil Nadu Civil Services (Conduct and Appeal) Rules — Rule 17

Citation : (2007) 09 MAD CK 0163

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : S.M. Subramanian, for the Appellant; N. Senthil Kumar, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—Challenge is made to the order of the third respondent made in Proc.Se.Mu.Aa. No. 61672/A Pa 2/2002 dated

20.10.2003 and to quash the same and consequently direct the respondents to reinstate the petitioner in service with full backwages with other

consequential service benefits.

2. The Court heard the learned Counsel on either side.

3. From the submissions made by the learned Counsel for the petitioner and materials available on record, it could be seen that the petitioner herein

who was appointed as workshop Assistant in the Department of Employment and Training in the year 1972, due to his family problems and health

conditions applied for medical leave from 2.2.1989 onwards and he was extending the leave period and that he was under the impression that

leave applications were entertained and accepted. Thereafter when he sought for permission to rejoin duty, he was not permitted to join duty. After

a prolonged period, he was directed to join duty from 19.7.2002 and even before joining the duty, a charge memo under Rule 17(b) Tamil Nadu

Civil Services (Conduct and Appeal) Rules (hereinafter referred to as "the Rules") has been issued to him on 5.12.2000 stating that he was not

attending the duty for more than one year from 2.2.1989. Following the explanation tendered, domestic enquiry was conducted .Not satisfied with

the explanation to the second show cause notice, the termination order was passed. Aggrieved over the same, the above writ petition has been

brought forth.

4. The only contention put forth by the learned Counsel for the petitioner is that it is not in controversy that the petitioner did not attend duty from

2.2.1989 onwards, but he applied for leave and he was under the bonafide impression that his applications were entertained and leave was

granted, but those applications were rejected. No reason was adduced to frame charges under 17(b) of the Rules. It was stated that since he was

absented from duty for a period of one year, the order of termination was passed. Under the circumstances, the order has got to be quashed.

5. Heard the learned Counsel for the respondents on the above contentions.

6. In the instant case, it is an admitted position that the petitioner was appointed as Workshop Assistant in the Department of Employment and

Training and he did not attend duty from 2.2.1989 for a period of one year. The only contention put forth by the petitioner's side is that he made

leave application then there and he was under the bonafide impression that they were entertained and leave has been granted and no materials is

available to prove any one of the above factors. Taking into consideration the facts and circumstances of the case, it would be quite clear that even

without getting permission, he was absented himself for duty for a period of one year. The conduct of the petitioner is not a minor one. Under such

circumstances, the order of termination has got to be sustained. This Court is unable to interfere with the orders passed by the third respondent and

hence the writ petition is dismissed. No costs. Consequently, WP.Mp. No. 10663 of 2006 is also dismissed.