

(2006) 09 MAD CK 0164
In the Madras High Court
Case No : Writ Petition No. 17040 of 1999

P. Muthusamy

APPELLANT

Vs

Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 06-09-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 09 MAD CK 0164

Hon'ble Judges : A. Kulasekaran, J

Bench : Single Bench

Advocate : Senthilkumar, for the Appellant; M. Vaidyanathan, for the Respondent

Judgement

A. Kulasekaran, J.—The prayer in this Writ Petition is for a Writ of Mandamus directing the respondents to forthwith pay the salary to the

petitioner for the period from 01.01.1996 to 01.05.1997 with all consequential benefits.

2. The learned Counsel for the petitioner submitted that when the petitioner was working as Stores Custodian, Grade-I at Chinna Salem in the

respondents Electricity Board, by order dated 14.12.1995 of the third respondent, he was transferred from Chinna Salem to Villupuram. The

petitioner has applied for medical leave between 27.12.1995 and 07.01.1996 which was also sanctioned by the third respondent. In the meantime,

he filed W.P. No. 20 of 1996 challenging the said transfer order dated 14.12.1995 and on 03.01.1996, in WMP No. 28 of 1996, this Court

granted interim stay, which was subsequently made absolute. Though the petitioner approached the respondents to allow him to join duty, the same

was not considered; that the third respondent passed an order dated 30.04.1997 reinstating the petitioner in service in the original place at Chinna

Salem, which was received by him only on 02.05.1997 and immediately he joined duty on the same day. The present writ petition is filed seeking

for a Writ of Mandamus to direct the respondent to pay salary to the petitioner from 01.01.1996 to 01.05.1997 with all consequential benefits.

3. Mr. Vaidyanathan, learned Standing counsel appearing for the respondents/ Board submitted that soon after the order of transfer issued by the

third respondent on 14.12.1995, the petitioner was relieved on 27.12.1995 itself, suppressing the same, the petitioner has filed the above said writ

petition No. 20 of 1996 and this Court also granted interim order on 03.01.1996, staying the operation of the transfer order, however, in

obedience of the interim order passed by this Court, the respondent has passed an order of reinstatement on 30.04.1996, hence, the petitioner is

not entitled to the salary for the period for which he filed this writ petition and prayed for dismissal of the same.

4. It is an admitted fact that medical leave was granted to the petitioner by the third respondent between 27.12.1995 to 07.01.1996 and this Court

has granted interim stay on 03.01.1996 in WMP No. 28 of 1996 in WP No. 20 of 1996 and the same was admittedly made absolute. The

respondents herein not filed any application to vacate the said interim order or filed an appeal against the same, while so, no valid explanation is

offered by the respondents as to why the said order dated 03.01.1996 in WMP No. 28 of 1996 was not implemented. It is also not the case of

the respondents that after the interim order granted by this Court, the petitioner has failed to join duty. The respondents have chosen to pass an

order of reinstatement only on 30.04.1997 and the same was received by the petitioner on 02.05.1997 and immediately, he joined duty on the

same day.

5. In view of the said facts that the interim stay granted by this Court was in force from 03.01.1996 till the petitioner joined duty on 02.05.1997

and also the fact that medical leave was granted from 27.12.1995 to 07.01.1996, this Court is of the considered view that the petitioner is entitled

to the salary for the period from 01.01.1996 to 01.05.1997 and other attendant benefits. If any amount is paid to the petitioner for the said period,

the same can be adjusted by the respondents.

6. It is submitted by the learned Counsel for the petitioner that the petitioner

attains the age of superannuation very shortly and prayed this Court to direct the respondents to pay the salary and other attendant benefits within a short period. Considering the said submission of the learned Counsel for the petitioner, the respondents are directed to pay the salary and other attendant benefits to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of in the above terms. No costs.