

Government of T.N. and Another

Vs

K. Rajaram Appasamy

Civil Appeals Nos. 3138-3140 of 1997

(K. Ramaswamy, D. P. Wadhwa JJ)

21.04.1997

ORDER

1. Leave granted.
2. We have heard learned counsel for the parties.
3. These appeals by special leave arise from the order dated 14-5-1996 passed by the Tamil Nadu Administrative Tribunal, Madras in OAs 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 27-6-1987 with regard to his posting. He did not report for duty for five years from 1-5-1982. 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 application till the date of reinstatement. This Court issued notice confined to the question of the respondent's entitlement to back wages. It would be obvious that the respondent did not choose to join 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 filing 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.