

Initiation of Disciplinary action for unauthorized absence from duty beyond the prescribed limit - Final orders not to be issued till the original application disposed off by the Tamil Nadu Administrative Tribunal

Personnel and Administrative Reforms (FR III) Department

Lr.No. 68841/FR.III/98-6/ P & AR Dept, Dated : 8.06.1999

Sir,

Sub : Fundamental Rule.

18 – Initiation of disciplinary action for unauthorized absence from duty beyond the prescribed limit – Disciplinary proceedings – stayed by the Tribunal – Final orders – not to be issued – Regarding.

I am directed to state that according to FR.18(3) when a Government Servant (Permanent or Approved Probationer) does not resume duty after remaining on leave for a continuous period of six months or one year, as the case may be, under sub-rules (1) and (2) of FR (18) or remains absent from duty after the expiry of his leave otherwise than on foreign service or on account of suspension, for any period which, together with the period of leave granted to him, exceeds the limit, he shall unless the Governor in view of the exceptional circumstances of the case otherwise determines, be removed from service, following the procedure laid down in the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules.

2) A Government Servant who is aggrieved by the order of removal from service passed by the appropriate authority may make an appeal against order of removal from Government Service. The Government on considering the exceptional circumstances under which the Government Servant was not able to resume duty, may relax FR.18 (3) in favour of the Government Servant so as to inflict any lesser punishment other than removal from service.

3) In accordance with the provisions of FR.18(3), certain Government Servants who do not resume duty within the permissible limit of six months or one year as the case may be under sub-rules (1) and (2) of FR.18, were removed from service by some Heads of Department / Administrative Department concerned. Aggrieved by the order of removal from service, they have filed Original Applications before the Tribunal seeking direction to quash the order of removal on various grounds and also contending that FR.18(3) is arbitrary and unconstitutional. In one such Original Application, the Tribunal has passed the following order :-

“The respondents are directed not to pass final orders pursuant to the impugned memorandum in the disciplinary proceedings till the disposal of the Original Application along with other Original Applications in which the validity of FR.18(3) is questioned. However, the respondents are at liberty to proceed further till the stage of getting explanation of the applicant on the impugned memorandum”.

4) In view of the above orders of Tamil Nadu Administrative Tribunal and in view of the fact that the validity of FR.18(3) is questioned in many Original Applications filed before the Tribunal, the Government issue the following instructions:-.

The Government employees against whom disciplinary proceedings have been initiated under Tamil Nadu Civil Service (Discipline and Appeal) Rules as stipulated in rule 18 (3) of Fundamental Rule for remaining absent beyond the permissible limit of one year or six months as the case may be in such cases no final orders should be issued by the disciplinary authorities concerned till the Original Applications already filed are disposed off by the Tamil Nadu Administrative Tribunal.

5) I am directed to request you to bring the above instructions to the notice of the Subordinate Officers under your control for information and necessary action.

for SECRETARY TO GOVERNMENT