

GOVERNMENT OF TAMIL NADU

Abstract

FUNDAMENTAL RULES – Rule 18(3) – Disciplinary action against Government Servants for remaining absent beyond the maximum limit – Amendment – Orders – Issued.

Personnel And Administrative Reforms (F.R. III) Department

G.O. Ms. No.154

Dated : 8.8.2000

Read :

1. G.O. Ms. No. 1046, Personnel and Administrative Reforms (FR.III) Department, Dated 13.11.87.
2. G.O. Ms. No. 177, Personnel and Administrative Reforms Department Dated 21.11.90.
3. Government letter No. 68841/FR3/98-6/Personnel and Administration Reforms Department, Dated 8.6.99.
4. Orders of Tamil Nadu Administrative Tribunal in O.A. No. 1120/89 and other original application dated 21.10.99
5. G.O. Ms. No.153, Personnel and Administrative Reforms (F.R.III) Department Dated 8.8.2000.

ORDER:

According to Fundamental Rule 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 Fundamental Rule 18 or remains absent from duty after the expiry of his leave otherwise than on foreign service or on account of suspension or on account of leave for employment abroad under section II-A of the Tamil Nadu Leave Rules: 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. Aggrieved Government servants who were removed from service in accordance with the provisions of Fundamental Rule 18(3) have filed Original Applications before the Tribunal against the order of removal and also contended that Fundamental Rule 18(3) is arbitrary and unconstitutional. The Tamil Nadu Administrative Tribunal in an Original Application has directed the respondents not to pass final orders pursuant to the impugned memorandum in the disciplinary proceedings till the disposal of the Original Applications along with other original applications in which the validity of Fundamental Rule 18(3) is questioned. In view of the above orders, instructions have been issued in the Government letter third read above to the effect that no final orders should be passed in the disciplinary action initiated against the Government servants as per Fundamental Rule 18(3), till the Original Application already filed are disposed of by the Tamil Nadu Administrative Tribunal.

3. In its order dated 21.10.99 in Original Application No. 1120/89 and 44 other Original Applications, the Tamil Nadu Administrative Tribunal after hearing the arguments of the Counsels for the applicants and the Senior Standing Counsel has observed that Fundamental Rule 18(3) is not valid as the same is repugnant to Service Rules and contrary to the Constitutional principles of equality.

4. In the light of the orders of the Tamil Nadu Administrative Tribunal referred to in para 3 above, the Government have passed orders in the Government order fifth read above indicating the procedures to be adopted for taking disciplinary action in the case of long absence by the Government servants in continuation of instructions issued in the Government letter third read above.

5. The Government have examined the entire issue carefully in the light of the orders of Tamil Nadu Administrative Tribunal dated 21.10.99 in Original Application No.1120/89 and 44 other Original Applications. There is no penal provision in the Central Fundamental Rule as well as in Central Civil Service Leave Rules for remaining absent beyond the permissible limit. No penal provision is also incorporated in other service rules of this state for violation of such rules. The Government have accordingly decided to substitute the provision of Fundamental Rule 18(3) suitably.

6. The following Notification shall be published in the Tamil Nadu Government Gazette:

Notification

In exercise of the powers conferred by the proviso to Article 309 read with Article 313 of the Constitution of India and of all other powers here upto, enabling, the Governor of Tamil Nadu hereby makes the following amendment to the Fundamental Rules.

Amendment

In the said Fundamental Rules, for sub-rule (3) of rule 18, the following sub-rule shall be substituted, namely- "(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-rule (1) or (2) or remains absent from duty after the expiry of his leave otherwise than on foreign service or on account of suspension or on account of leave for employment abroad under Section II-A of the Tamil Nadu Leave Rules, 1933 for any period which together with the period of leave granted to him, exceeds the limit, he shall be liable for disciplinary action under Tamil Nadu Civil Services (Discipline & Appeal) Rules.

(By order of the Governor)

(S. MUNIR HODA)
Secretary to Government.