

PETITIONER:
GOVERNMENT OF TAMIL NADU & ANR.

Vs.

RESPONDENT:
K. RAJARAM APPASAMY

DATE OF JUDGMENT: 21/04/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

We have heard learned counsel for the parties.

These appeals by special leave arise from the Order dated May 14, 1996 passed by the Tamil Nadu Administrative Tribunal, Madras in O.A. 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 June 27, 1987 with regard to his posting. He did not report for duty for five years from May 1, 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 year. The Tribunal is its impugned order set aside the order of his removal from service and directed to pay 50% of the back wage till the dated of filing of the original application and full back wages from the dated filing of the original applications till the dated of reinstatement. This Court issued notice confined to the question of respondent's entitlement to back wages. It would be obvious that the respondent did not choose to join the 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 circumstance, 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 wage thereafter till his reinstatement. Accordingly, the appeal are allowed and the direction to pay back wages stand set aside. No cost.