



WEB COPY



W.P.(MD)No.15528 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : **31.07.2024**

DELIVERD ON : **28.08.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15528 of 2023

and WMP(MD)No.19613 & 19614 of 2023

R.Manivel

... Petitioner

Vs.

1.The Chairman and Managing Director,
Tamil Nadu Newsprint and Papers Limited,
No.67, Mount Road,
Guindy, Chennai- 600 032.

2. The General Manager (HR),
Tamil Nadu Newsprint and Papers Limited,
No.67, Mount Road,
Guindy, Chennai- 600 032.

3.The General Manager(HR),
Tamil Nadu Newsprint and Papers Limited,
No.141, TNPL Main Road,
Kagithapuram (PO),
Karur District- 639 136.

..Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of

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India praying this Court to issue a Writ of Mandamus, directing the respondents herein to sanction Extraordinary Leave Credit for the days of Public Holidays, Government Holidays on Saturdays worked so as to enable the petitioner to get it encashed, based on the petitioner's representation dated 20.05.2023 within the time stipulated by this Court.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.M.P.Senthil

ORDER

Heard Mr.P.Krishnasamy, learned counsel appearing for the petitioner and Mr.M.P.Senthil, learned counsel appearing for the respondents.

2. The petitioner has filed this writ petition seeking writ of mandamus directing the respondents to sanction extraordinary leave credit for the days of public holidays, Government holidays and Saturdays so as to enable the petitioner to get them based on his representation dated 20.05.2023.

3. The petitioner was appointed as a Junior Officer in the first respondent Company Tamilnadu Newsprint and Papers Limited (in short



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'TNPL') on 16.07.1984 through Employment Exchange. The petitioner claims that he is entitled with the benefit of Rule 61.1 of the Tamilnadu Newsprint and Papers Limited (Service, Conduct, Discipline and Appeal) Rules, September 1998. According to the said regulation, for the Factory and Factory Offices, the holidays shall be as per the Tamilnadu Industrial Establishment (National and Festival Holidays) Act, 1958 and for the Corporate Office, holidays shall be as per the Negotiable Instruments Act and for the Branches and for Sale Offices in other States, holidays shall be as per holidays declared by the Corporate Office. The petitioner claims that as per the above rule, he is entitled to encash the holidays during which he worked while his entire service period. The petitioner has calculated the above entitlement as tabulated below:

Sl. No.	Details	Entitled	Sanctioned	Eligibility
1	Annual Holidays for the year 2021	22	10	12
2	Weekly Holidays for the year 2021			
2.1	Saturdays	52	0	52
2.2	Sundays	52	52	0
3	Sub Total	126	62	64



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4	Grand Total for Employment period	For 30 years-1984- 2014	64x30	1920
5	Forgo for the period worked as Senior Manager & Assistant General Manager	For 7 years- 2015 to 2021	64x7	448
6	Net claim days			1472

4. However, Mr.M.P.Senthil, learned counsel for the respondents submitted that the petitioner had joined the Government service by declaring that he belonged to Scheduled Tribes but on re-evaluation, it came to be known that he had given a false community certificate and obtained an employment in the respondent Company and hence, the respondent had given a show cause notice on 20.03.2021 and directed him to submit his explanation in writing. Instead of furnishing the same, the petitioner has filed the writ petition in W.P(MD)No.7183 of 2021 and obtained interim orders. The petitioner has filed this writ petition almost after 39 years of his service and hence the petition is affected due to delay and laches.

5. As per the Tamilnadu Industrial Establishment (National and Festival Holidays) Act, 1958, the respondents had declared 9 days holidays every year and the petitioner is also aware of the said fact. The petitioner



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was appointed as Junior Officer in the cadre of officer and he is governed by the service rules of the Company. The petitioner has not engaged in any technical side in the respondent Factory. The employees working in the respondent Factory are entitled to only one day weekly off as per the provisions of the Factories Act, 1948. But the employees working in the Corporate Office and Marketing Branch Office are availing two days weekly off irrespective of their cadre. Having worked in a Corporate Office as an Officer, the petitioner has filed this writ petition by making a wrongful claim. Only workmen and staff in workmen cadre are governed by the certified standing orders of the Company and the Officers are exempted from its application. The petitioner had, on his own imaginary calculation, filed this writ petition after he got relieved from the services of the Company on 31.05.2021. Even the respondent Factories are coming under the Tamilnadu Industrial Establishment (National and Festival Holidays) Act, 1958 but it is governed by the Factories Act, 1948. Even according to the submission made by the petitioner he joined as a Junior Officer and not as a Workmen in the Factory. No doubt the petitioner has relieved from service on 31.05.2021 after having rendered 37 years of service from the year 1984. At no point of time or at the end of the Calendar year, the petitioner has raised any claim to sanction the extra ordinary leave credit



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and encash the same. Before proceeding to make a claim, the petitioner has to prove about his entitlement in accordance with the rule. Since he was recruited as an Officer, he is governed under the Factories Act, 1948 and hence, he is not entitled to the relief as prayed.

6. By citing the judgment of the Hon'ble Supreme Court in ***AIR 2011 SCC 1989 (State of Madhya Pradesh v. Narmada Bachao Andolan and another)***, the learned counsel for the petitioner submitted that the petitioner has been treated in a discriminatory manner when similar relieves have been granted to persons similar to him. Had it been the case of the petitioner, he would not have waited for 37 years and made a claim subsequent to his relief from service. The petitioner has made a fancy claim after 37 years without giving any reason as to what made him wait for 37 years. Even if it is agreed for the sake of argument that the petitioner is entitled to the extraordinary holidays as claimed by him, unless the petitioner could prove that his entitlement for extraordinary leave is correct and corresponds to his cadre in which he had joined service, he is not entitled to the relief as prayed. It seems that the petitioner has raised a novel claim for extraordinary holidays as an afterthought, after he was given with the charges and initiation of action against him on the allegation that he has



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furnished a false community certificate at the time of joining in the respondent Company. As the claim of the petitioner was not raised on the proved foundational facts, it does not deserve any consideration. Hence, this writ petition is liable to be dismissed.

7. In the result, this writ petition is **dismissed**. No Costs. Consequently, connected miscellaneous petitions are dismissed.

28.08.2024

Index :Yes/No

Internet:Yes/No

NCC : Yes/No

PJL



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R.N.MANJULA, J.

PJL

To

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**Order made in
W.P.(MD)No.15528 of 2023
and WMP(MD)No. 19614 of 2023**

28.08.2024