

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.7423 of 2014
and
M.P.No.1 of 2014

P. Gurssami

...Petitioner

-Vs-

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
Environment and Forest Department
Government of Tamil Nadu
Secretariat
Chennai-600 009.
2. The Managing Director
Tamil Nadu Tea Plantation Corporation Ltd.,
Regd. Office, TANTEA Complex
Coonoor - 643 101
The Nilgiris.
3. The Divisional Manager
Tamil Nadu Tea Plantation Corporation Ltd.,
Ryan Tea Division
Periyakallar (PO)
Valparai Taluk
Coimbatore District.
PIN - 642 106.

...Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order Ref.No.E-2/18025/2014 dated 7 January 2014 passed by the second respondent and quash the same as null and void and consequently direct the second respondent to issue 50% of unearned leave on private affairs on retirement of the petitioner, on the basis of resolution dated 27 June 2008 passed by the Board of Directors of TANTEA.

For Petitioner : Mr.P. Gurssami (party in person)

For Respondents : Mr.N. Inbanathan
Govt. Advocate (F)

ORDER

This writ petition is directed against the proceedings dated 7 January 2014, whereby and whereunder the second respondent informed the petitioner that there is no question of encashment of 50% of the salary by surrendering unearned leave in view of the absence of a provision in the Staff Service Rules framed by Tamil Nadu Tea Plantation Corporation Limited (hereinafter referred to as "TANTEA") .

2. The petitioner joined the service of TANTEA as Typist in 1982. The petitioner was later promoted as Superintendent and on attaining the age of Superannuation the petitioner retired on 31 December 2012.

3. The petitioner was not paid 50% of encashment of unearned leave on private affairs on the ground that the Service Rules does not provide for such payment.

4. The Government have issued an order in G.O.Ms.No.488, Finance (Pension) Department, dated 12 August 1996 extending the benefit of encashment of 50% unearned leave on private affairs to the employees of Government. Subsequently, the Government in its letter dated 28 January 2008 made it clear that the scheme for encashment of unearned leave on private affairs ordered in G.O.Ms.No.488, Finance (Pension) Department, dated 12 August 1996 for Government servants may also be extended to the employees of all Statutory Boards and State Public Sector Undertakings. Since the petitioner is an employee of State Public Sector Undertakings, he is eligible for encashment of 50% of the unearned leave on private affairs.

5. The Government vide letter dated 28 January 2008 called upon the Chief Executive Officers of State Public Sector Undertaking to place before the Board of Directors for extending the benefits to the employees of State Public Sector Undertakings. The Board of Directors of TANTEA at its meeting held on 27 June 2008 resolved to extend the benefits of unearned leave on private affairs with effect from the date of Government letter dated 28 January 2008 and to amend the Staff Service Rules accordingly.

6. The second respondent pursuant to the resolution dated 27 June 2008 submitted a request to the Government to extend the benefits to all its employees. The second respondent made a further request to approve the proposed amendment to TANTEA Staff Service Rules for the purpose of encashment of 50% of unearned leave on private affairs. The matter is still pending on the file of the Government. The petitioner made a representation on 19 December 2013 for the purpose of payment of 50% of the salary by saving unearned leave on private affairs. The said request was rejected only on the ground that there is no provision in the Service Rules to grant unearned leave on private affairs.

7. The second respondent is a public owned Corporation. The Government made it very clear that the order in G.O.Ms.No.488, Finance (Pension) Department dated 12 August 1996 would apply even to the employees of statutory Boards and State Public Sector Undertakings. The second respondent has taken a conscious decision to extend the benefits of encashment of 50% of the unearned leave on private affairs to its employees. The approval of the Government is technical in nature.

8. In fact only pursuant to the Government order and the subsequent letter dated 28 January 2008 the second respondent made a proposal. The fact that the Government is now seized of the matter and the Rules have not been amended, cannot be a reason to deny the petitioner of the benefits conferred on him pursuant to the Government Order in G.O.Ms.No.488, Finance (Pension) Department dated 12 August 1996. The second respondent is therefore not correct in rejecting the claim made by the petitioner.

9. In the result, the impugned order dated 7 January 2014 is set aside. The second respondent is directed to permit the petitioner to encash 50% of the unearned leave on private affairs, standing on his credit. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. The writ petition is allowed to the extent indicated above. Consequently the connected MP is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

Tr/

To

1. The Secretary to Government
The Government of Tamil Nadu
Environment and Forest Department
Government of Tamil Nadu
Secretariat
Chennai-600 009.
2. The Managing Director
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1 CC to Mr.P. Gurssami, Advocate SR.No. 15923

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SKV (CO)
PSI (15.04.2015)