

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.06.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.17297 OF 2015 &
M.P.No.1 of 2015

1 V.Parthasarathy
2 S.Gibson Dharmaraj
3 S.Latchumanan
4 O.T.Raman
5 M.Bojan
6 M.Gillan
7 S.L.Sivan Pillai
8 T.Bojan
9 T.Chandran
10 M.J.Raveendran
11 D.Sivaji
12 A.Kumaresan
13 H.Muniver Khan
14 S.Manoharan
15 C.Govindarajan
16 A.Nachimuthu
17 N.Joghee
18 M.Soundra Pandian
19 R.Sivaprakasam
20 H.Antony D Cruz
21 R.Philips Francis
22 R.Krishnan
23 K.Durairaj

... PETITIONERS

Vs

1. The Government of Tamil Nadu
Rep by its Secretary
Environment and Forest Department
Government of Tamil Nadu
Secretariat, Chennai 9.
2. The Managing Director
Tamil Nadu Tea Plantation Corporation Limited
Regd. Office, TANTEA Complex
Coonoor 643 101, The Nilgiris.

... RESPONDENTS

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the second respondent to issue the remaining service benefit of 50% unearned leave on private affairs on retirement (based on the Resolution dated

27.6.2008 of the Board of Directors of TANTEA) and freezed Dearness Allowance of their service period on par with the Government Orders with effect from 1.1.2000 to 1.7.2014.

For Petitioner : Mr.G.Sundaram
For Respondents : Mr.M.Inbanathan, - R1
Government Advocate
Mr.V.Jayaprakash narayanan - R2
Special Government Pleader

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioners are all employees of the second respondent Corporation, which is owned by the Tamil Nadu Government. All the petitioners retired from service after rendering very long years of service as disclosed in paragraph 2 of the affidavit filed in support of the Writ Petition.

3.Though the prayer in the Writ Petition is for a direction to the second respondent to issue encashment of 50% of unearned leave on private affairs on retirement, based on the resolution dated 27.6.2008, of the Board of Directors of the second respondent and the freezed dearness allowance, the learned counsel for the petitioners has submitted that the petitioners' claim for encashment of unearned leave on private affairs alone be considered in this Writ Petition, with liberty to agitate regarding freezed dearness allowance separately.

4.The Government issued G.O.Ms.No.488 Finance (Pension) Department dated 12.8.1996, wherein 50% of the leave on private affairs standing to the credit of the employees upto maximum of 90 days be entitled for full salary. The relevant portion of paragraph 2(a) of G.O.Ms.No.448 dated 12.8.1996 is extracted hereunder:

"2.The government have decided to accept the long pending demand of various associations of employees to surrender half pay leave on private affairs at the time of retirement and also to grant full leave salary for encashment of the entire earned leave at credit of retiring employees. Accordingly, government pass the following orders:

a)At the time of retirement, 50% of the leave on private affairs standing to the credit of the employees upto maximum of 90 days be entitled for full salary..."

5. Based on the above Government Order, the Secretary to Government, Finance Department, issued a letter dated 28.1.2008, to all State Public Sector Undertakings/Boards, to amend the Service Rules and Regulations, extending the benefits relating to encashment of unearned leave on private affairs, in terms of G.O.Ms.No.448, referred to above.

6. Based on the aforesaid communications dated 28.1.2008, the Board of the second respondent passed a resolution on 27.06.2008, to extend the benefit to all its employees, the encashment of unearned leave on private affairs, in terms of G.O.Ms.No.448 upto 90 days and it was resolved to amend Staff Service Rules accordingly. After passing of the resolution, the second respondent sent the same to the first respondent for its approval. Unfortunately, the first respondent without taking note of G.O.Ms.No.448 and also the letter dated 28.1.2008 of the Finance Department, issued an order in Letter No.17795/FR8/08-3 dated 02.03.2009, refusing to approve the amended Rules as sought for by the Board, based on its resolution dated 27.6.2008. Hence, the employees of the second respondent were not able to get the benefit of G.O.Ms.No.448 on par with the Government Employees.

7. One of the employees of the second respondent filed W.P.No.7423 of 2014, claiming the encashment of unearned leave on private affairs upto 90 days as per G.O.Ms.No.448 and the same was allowed by this court on 20.3.2015, taking into account the aforesaid facts.

8. In view of the same, first respondent is directed to pass suitable orders, within a period of eight weeks, taking into account the order passed by this Court, referred above, and also taking note of the Government letter dated 28.1.2008, allowing the claim of the petitioners for encashment of unearned leave on private affairs upto 90 days and a further direction is issued to the second respondent to extend the said benefits to the petitioners herein, in view of the order of this Court in W.P.No.7423 of 2014, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Secretary
The Government of Tamil Nadu
Environment and Forest Department
Government of Tamil Nadu
Secretariat, Chennai 9.
2. The Managing Director
Tamil Nadu Tea Plantation Corporation Limited
Regd. Office, TANTEA Complex
Coonoor 643 101 The Nilgiris.

+23cc's to Mr.S.Murugan, Advocate, S.R.No.30031
+1cc to the Special Government Pleader(Forest), S.R.No.29810
+1cc to the Government Pleader, S.R.No.30073

W.P.No.17297 OF 2015

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