HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1746 of 2012

Date: 03.11.2015

Between:

A. Suresh Kumar, s/o. A.Venkata Narsaiah,

Aged about 58 years, Occu: Assistant Manager(Finance)

(Retired), O/o Accounts Officer, BBW & PP, APSRTC,

Miyapur, Hyderabad.

…..Petitioner

And

APSRTC, rep. by its Chairman & Managing Director,

Bus Bhavan, RTC X Road, Hyderabad and others.

…..Respondents

The Court made the following:

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ORDER:

Petitioner initially joined as Conductor on 08.12.1977 and promoted as Junior Assistant in 1980. He was further promoted as Senior Assistant (Finance), Superintendent (Finance) and ultimately retired from service while working as Assistant Manager (Finance) on attaining the age of superannuation w.e.f.

31.10.2011. The claim of the petitioner is by the time he retired from service, he was entitled to encash Earned Leave of 299 days that accrued to his leave account, whereas he was not granted encashment of total extent of 299 days. Aggrieved thereby, this writ petition is filed.

2. According to the learned counsel for petitioner, there was no justification for the respondents to deduct 17 days of earned leave, whereas as per the service rendered by him, he is entitled to 299 days of earned leave and such action of the respondent authorities is *ex facie* illegal. Petitioner was denied of encashment of 17 days of earned leave.

3. Learned standing counsel representing respondent corporation submits that according to the procedure envisaged by the respondent corporation, an employee is entitled to encashment of earned leave of maximum of 300 days in the entire service. Even if a person is not having more than 300 days of earned leave, no encashment can be granted. In the instant case, petitioner has reached 300 days of earned leave by 16.09.2011. It is further stated that petitioner availed leave for 20 days from 17.09.2011 to 31.10.2011. On account of availing of leave, the days are reduced and, therefore, petitioner was actually entitled only for 280 days of earned leave for encashment. However, taking into consideration the subsequent period, in view of the reduction of the outer limit as per the calculation, he was also added two more days and total earned leave period was determined as 282 days.

4. Learned counsel for petitioner disputes the said claim and contends that petitioner has not availed earned leave as claimed by the respondents from 17.09.2011 to 31.10.2011. He could not attend to duty from 17.09.2011 to 28.09.2011 on account of Sakala Janula Samme (General Strike) for formation of separate State of Telangana and for this period the Management suo-motu deducted from the leave account and same is *ex facie* illegal**.** He, therefore, submits that such reduction is illegal and respondents ought to have added the total number of days for which petitioner is entitled for encashment of earned leave.

5. Admittedly, petitioner did not perform his duties for about 20 days. If the contention of the learned counsel for petitioner is accepted that respondent corporation could not have adjusted the period of absence during strike period as earned leave, the said period has to be treated as loss of pay. Thus, whether it is treated as loss of pay or earned leave, it would make no difference financially, when petitioner did not have higher accumulation of earned leave. On reading of para-5 of the counter-affidavit and the arguments of the learned standing counsel for respondent corporation, it cannot be said that respondents have not made correct calculation of the days of earned leave accumulated to the petitioner for encashment of earned leave. Even assuming that there is some merit in the contention of the learned counsel for petitioner with reference to the entitlement and wrong calculation is made in determining the total number of earned leave days for encashment, this is not a matter where this Court should exercise extraordinary jurisdiction under Article 226 of the Constitution of India and go into minute details of the exercise undertaken by the respondent corporation in determining the entitlement of the petitioner for encashment of earned leave.

6. Therefore, I see no error in the decision of the respondent corporation warranting interference by this Court. Accordingly, writ petition is dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 03.11.2015

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