

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

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THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No. 11758 of 2010

K.Puthisigamani

...Petitioner

-Vs-

1. The Secretary to Government,
Micro, Small and Medium
Enterprises Department,
Fort St.George,
Chennai-09.

2. The Commissioner of Industries
and Commerce/Chairman and
Managing Director,
Tamil Nadu Leather Development
Corporation Ltd.,
Industries and Commerce Department,
Chepauk, Chennai-05.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in Letter No.1560/G/2009-5 dt.16.9.2009 and quash the same and consequently direct the respondents to pay the leave salary for the period of 1.11.2002 to 1.12.2002 amounting to Rs.14 027/- and the duty salary for the period from 2.12.2002 to 31.3.2003 amounting to Rs.56 108/- (Totally Rs.70 135/-) along with interest at the rate of 12% from 1.4.2003 till the date of payment and the cost of this writ petition.

For Petitioner : Mr.R.PremNarayanan
 For Respondents : Mr.Jaya Prakash Narayanan AGP

ORDER

The prayer in the writ petition is for a certiorarified mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in Letter No.1560/G/2009-5 dt.16.9.2009 and quash the same and consequently direct the respondents to pay the leave salary for the period of 1.11.2002 to 1.12.2002 amounting to Rs.14 027/- and the duty salary for the period from 2.12.2002 to 31.3.2003 amounting to Rs.56 108/- (Totally Rs.70 135/-) along with interest at the rate of 12% from 1.4.2003 till the date of payment.

2. The case of the petitioner is that he was appointed as Junior Accounts Officer in Tamil Nadu Leather Development Corporation Ltd and voluntarily retired from service with effect from 31.03.2003. The said corporation was wound up by the Government in G.O.Ms.No.54, Small Industries Department, dated 30.10.2000. In the said Government Order, the Commissioner of Industries and Commerce, namely, the second respondent herein was posted as Chairman and Managing Director to complete the residuary works in Tamil Nadu Leather Development Corporation Ltd (hereinafter referred to as TALCO).

3. The further case of the petitioner is that he was deputed to the Women Development Corporation at Cuddalore from 11.10.1999 to 30.09.2002 in the post of Assistant Project Officer. He was relieved from that Corporation on 30.09.2002. Thereafter, he was on medical leave, i.e., from 01.10.2002 to 01.12.2002. Subsequently, the petitioner reported to duty on 02.12.2002 at TALCO. On reporting duty, the Manager, Finance, TALCO, issued an order on 02.12.2002 itself deputing him to work as Junior Accounts Officer and authorised to attend the official work relating to TALCO, in the Secretariat at Fort St.George, Chennai-09. Immediately, the petitioner reported to duty at Secretariat and thereafter, petitioner's voluntary retirement application was accepted and he was relieved from service from 31.03.2003. However, the petitioner's salary from 01.11.2002 to 01.12.2002 and from 02.12.2002 to 31.03.2003 was not paid. The request of the petitioner to pay the salary was rejected by the impugned order of the first respondent by order dated 16.09.2009 by which the first respondent has stated that unearned leave on Medical Certificate for 60 days from 01.10.2002 to 29.11.2002 with permission to suffix the holidays on 30.11.2002 and 1.12.2002 alone was given and with regard to the salary from the period of 02.12.2002 to 31.3.2003 is not given because the petitioner had not been given any postings in TALCO

as he was relieved from the Tamil Nadu Corporation for Development of Women Limited, Cuddalore till his voluntary retirement and the impugned order further proceeds to say that the period i.e., from 02.12.2002 to 31.3.2003, cannot be considered as duty period.

4. Heard the learned counsels for the respective parties.

5. The petitioner after relieving from the Tamil Nadu Women Development Corporation was directed to join duty at TALCO on 02.12.2002. On the said date, when the petitioner reported to duty on TALCO, an identification card was issued by them and the same has been filed in the typed set of papers by the petitioner in the writ petition which is as follows:

Identification Card

This is to certify that Thiru K.PUTHSIGAMANI is working as JUNIOR ACCOUNTS OFFICER in TAMILNADU LEATHER DEVELOPMENT CORPORATION Ltd., No.52, Krishnadoss Road, Perambur, Chennai - 600 012 whose specimen signature is attested below, is authorised to attend the official work relating to TALCO Ltd., in Secretariat, Director of Industries and Commerce, Chepauk and all other Govt. Offices."

6. In further proceedings dated 28.1.2003 issued by the TALCO

at paragraph 4, it is stated that on expiry of leave, he had reported to duty at TALCO on 02.12.2002. By further proceedings dated 08.4.2003 by way of relieving order, the TALCO has said at paragraph 3 of the said order that accordingly Thiru. K.Puthisigamani (petitioner), Junior Accounts Officer is deemed to have been relieved from TALCO's service with effect from the Afternoon of 31.03.2003 on V.R.S terms and conditions. In the further certificate issued by TALCO in May 2003, it is stated as follows:

CERTIFICATE

This is to certify that Thiru K.Puthisigamani, Junior Accounts Officer of Tamilnadu Leather Development Corporation Ltd., Perambur, Chennai - 600 012 has not been paid salary in TamilNadu Leather Development Corporation Ltd., for the period from November, 2002 to March, 2003.

7. All the aforesaid documents would coherently and conjointly go to show that the petitioner after having relieved from The TamilNadu Women Development Corporation was directed to report duty to the original parent department TALCO on 02.12.2002 which the petitioner has rightly done and reported for duty. The same has been recorded and an identification card was also issued by TALCO on 02.12.2002. The further proceedings issued by the TALCO on 28.1.2003 as well as on 08.4.2003 also would say that the petitioner

had joined at TALCO on 02.12.2002 and he had been relieved from TALCO on 31.3.2003 on his VRS being accepted. The further certificate issued by the TALCO in the month of May 2003 also would establish that no salary has been paid to the petitioner from November 2002 to March 2003.

8. All the aforesaid documents have made out a crystal clear case that the petitioner had been on duty for the relevant period i.e., 02.12.2002 to 31.3.2003 at TALCO and the said company having been wound up and the residuary works had been undertaken by first respondent/State Government, it is for the first respondent to disburse the salary for the petitioner for the said period which they failed to do through the impugned order dated 16.09.2009. This Court does not agree with the reasoning given by the first respondent in the order impugned dated 16.09.2009 and the same is palpably wrong as it goes against the various proceedings issued by TALCO.

9. Therefore, the impugned order is liable to be set aside and accordingly, it is set aside. As the residual function of the TALCO has been undertaken only by the State Government through the first respondent, the necessary salary payments and other service benefits

and due, if any can only be settled by the first respondent.

10. Therefore, there shall be a direction to the first respondent to disburse the salary due of the petitioner for the period from 02.12.2002 to 31.3.2003 with 6% interest from the date of actual due for salary till the date of payment and the needful shall be done within a period of twelve weeks from the date of receipt of a copy of this order.

11. In the result, the writ petition is allowed and the impugned order is quashed and the direction as indicated above is issued. No costs.

Index: Yes/No
Internet: Yes/No
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19.10.2016

To

1. The Secretary to Government,
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2. The Commissioner of Industries
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R.SURESH KUMAR,J.

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