

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.9.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

Writ Appeal No.938 of 2016

1. The Government of Tamil Nadu
rep. by its Secretary
Environment and Forest Department
Secretariat, Chennai 600 009.
 2. The Managing Director
Tamil Nadu Tea Plantation Corporation Limited
Registered Office, TANTEA Complex
Coonoor - 643 101
The Nilgiris.
 3. The Divisional Manager
Tamil Nadu Tea Plantation Corporation Limited
Ryan Tea Division
Periakallar Post - 642 106
Valparai Taluk
Coimbatore District. ... Appellants
- Vs.
- P.Gurussami ... Respondent

Appeal under Clause XV of the Letters Patent filed against the order of the learned single Judge dated 28.10.2015 made in W.P.No.19788 of 2015. Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the 2nd respondent to issue the enlarged dearness Allowance on par with Government Employees as extended to employees of TANTEA staff as per staff service Rule No.12 with effect from 1.1.200 to 1.7.2012.

For Appellants : Mr.N.Inbanathan, G.A.
For Respondent : Mr.P.Gurussami
Party-in-Person

J U D G M E N T
(Made by S.Vaidyanathan,J)

The present writ appeal has been filed against the order of the learned single Judge dated 28.10.2015 made in W.P.No.19788 of 2015.

2. The facts which led to the filing of the writ appeal are as follows:

The respondent, after rendering 31 years of services, retired on 31.12.2012, on attaining the age of superannuation. The respondent was not paid 50% of Unearned Leave on private affairs and therefore, he was forced to approach this Court earlier, by way of a writ petition in W.P.No.7423 of 2014. The said writ petition was allowed, taking note of G.O.Ms.No.488, Finance (Pension) Department, dated 12.8.1996 which extended the benefit of encashment of 50% Unearned Leave on private affairs to the employees of all statutory Boards and State Public Sector Undertakings. Since the second appellant had not paid the Dearness Allowance payable to the respondent, he filed a writ petition in W.P.No.19788 of 2015. The learned single Judge, by the order impugned in this writ appeal, taking note of Rule 12 of the Staff Service Rules, directed the second appellant to pay the enhanced Dearness Allowance, within a period of ten weeks from the date of receipt of a copy of that order. Aggrieved by the said order, the respondents in the writ petition have come up with the above appeal.

3. The learned Government Advocate submitted that though the second respondent attempted to comply with the order of the learned single Judge to pay the enhanced Dearness Allowance to the respondent, they could not pay the same due to financial constraint. He also submitted that the second respondent being a public sector undertaking, it could not seek financial assistance from the Government to meet out their expenses.

4. Admittedly, Rule 12 of the Staff Service Rules entitles the employee to be paid Dearness Allowance on par with State Government Employees. The said Rule reads as follows:

"Pay, Dearness Allowance and Compensatory Allowances, shall be paid to the employees at the rates applicable to State Government employees from time to time."

5. A plain reading of the above makes it clear that all the employees of the second appellant Corporation should be paid Pay, Dearness Allowance and Compensatory Allowance at the rates applicable to the State Government employees. Therefore, the second appellant cannot deny the grant of Dearness Allowance to the respondent on the sole ground that the Corporation has incurred a loss to the tune of Rs.55.73 Lakhs and that it could not get any financial assistance from the Government, being a public sector undertaking.

6. Admittedly, the Dearness Allowance paid to the employees are being increased from time to time in order to meet out the cost of living, which fact cannot be lightly ignored by the Corporation. By the very act of the second appellant, the purpose for which it was paid to the employees got defeated.

7. We are, therefore, of the considered opinion that the second appellant cannot deny payment of Dearness Allowance to the respondent. Thus, we hold that the learned single Judge is right in directing the Government to pay the enhanced dearness allowance to the respondent herein.

8. Accordingly, the writ appeal is disposed of, directing the second appellant to pay the amount to the respondent, within a period six weeks from the date of receipt of a copy of this order, failing which the amount will carry interest at 12% per annum from the date it became due. There shall be no order as to costs. Consequently, CMP No.12101 of 2016 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kpl

To

1. The Secretary, Government of Tamil Nadu
Environment and Forest Department
Secretariat, Chennai 600 009.

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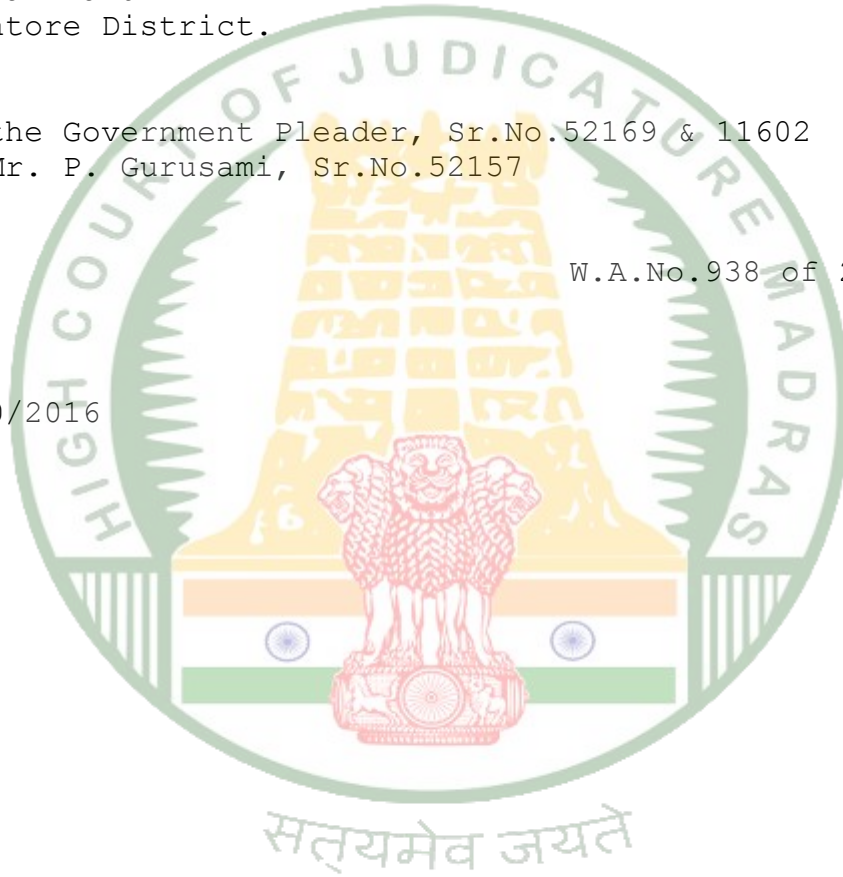
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3. The Divisional Manager
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Periakallar Post - 642 106
Valparai Taluk
Coimbatore District.

+2 CC to the Government Pleader, Sr.No.52169 & 11602
+1 CC to Mr. P. Gurusami, Sr.No.52157

W.A.No.938 of 2016.

CP (CO)
MD : 21/10/2016



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