

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31603 of 2016

J.Bernard Philip Leo

... Petitioner

vs.

1.The Assistant Director of Survey and
Land Records,
Coimbatore - 641 018.

2.The Regional Deputy Director of
Survey and Land Records,
Coimbatore - 641 018.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus to direct the first respondent to pay the leave salary and the cash equivalent of the petitioner's earned leave at credit and 50% of unearned leave on private affairs at credit of the petitioner on the date of his removal from service i.e. 20.9.2013, in the light of the order passed in W.P.(MD) No.1484 of 2016 dated 29.1.2016 by this Court or to issue any other suitable direction to the respondents within the time limit as deem fit by this Court.

For Petitioner :Mr.R.Baskaradoss

For Respondents :Mr.R.Venkatesh,
Govt. Advocate

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to pay the leave salary and the cash equivalent of his earned leave at credit and 50% of unearned leave on private affairs at his credit on the date of his removal from service i.e. 20.9.2013,

in the light of the order passed in W.P.(MD) No.1484 of 2016 dated 29.1.2016 by this Court or issue any other suitable direction to the respondents within the time limit as deem fit by this Court.of disbursement of the terminal benefits.

3. It is the case of the petitioner that he was appointed as Typist in the office of the first respondent on 21.3.1983 and his service was regularized with effect from 25.6.1984 as per G.O.Ms.No.996, P & A.R, Department dated 22.9.1984. While so, the first respondent in his proceedings dated 20.9.2013 issued an order of capital punishment of removal from service on the afternoon of 20.9.2013 for the alleged charge that the petitioner married another lady during the life time of his first wife. Aggrieved over the said order, the petitioner preferred appeals before the authorities concerned and failed to succeed in the appeals. Hence, he approached this Court by filing a writ petition in W.P.No.29047 of 2016 and the same is pending. The petitioner served 30-1/2 years and had he continued in service, he would have reached the age of superannuation on the afternoon of 30.4.2015. In view of the premature service termination by way of removal from service, the petitioner's terminal benefits, such as accrued amount of Special Provident fund Contribution, Encashment of Earned Leave and Unearned Leave on private affairs at his credit, leave salary, etc. are not drawn and paid to him in spite of repeated requests. In this regard, he made a detailed representation dated 23.8.2016 to the first respondent. But, the said representation was not considered so far. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Learned counsel appearing for the petitioner submitted that in similar circumstances, the Madurai Bench of this Court by an order dated 29.1.2016 in W.P.(MD) No.1484 of 2016, directed the respondents therein to settle the benefits to the petitioner therein. Hence, following the same, similar order may be passed.

5. I have heard the learned Government Advocate, who has taken notice on behalf of the respondents.

6. Though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the first respondent to consider the representation of the petitioner in the light of the order of the Madurai Bench of this Court dated 29.1.2016 made in W.P.(MD) No.1484 of 2016.

7. Accordingly, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to make a fresh representation to the first respondent along

with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, first respondent is directed to consider the representation seeking leave salary and the cash equivalent of his earned leave at credit and 50% of unearned leave on private affairs at his credit on the date of his removal from service i.e. 20.9.2013, and pass appropriate orders on merits and in accordance with law and also in the light of the order of the Madurai Bench of this Court dated 29.1.2016 made in W.P.(MD) No.1484 of 2016, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Assistant Director of Survey and
Land Records, Coimbatore - 641 018.
- 2.The Regional Deputy Director of
Survey and Land Records,
Coimbatore - 641 018.

+1cc to Mr.Baskaradoss, Advocate Sr.51575
+1cc to the Government Pleader Sr.51930

सत्यमेव जयते

W.P.No.31603 of 2016

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srg 06/10/2016