



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)No.12432 of 2016

Dr.I.Ismail

... Petitioner

Vs.

1.The Regional Joint Director of
Collegiate Education,
Kakkan Street,
Shenoy Nagar,
Madurai - 625 020.

2.The Secretary / Correspondent,
M.S.S.Wakf Board College,
K.K.Nagar,
Madurai - 625 020.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Certiorarified Mandamus to call for the records relating to impugned order of the 1st respondent dated 18.06.2016 in Na.Ka.No.1292/001/2016 in so far as it denies earned Leave Salary and Leave on private affairs benefits to the petitioner and consequently direct the respondents to disburse earned Leave Salary and Leave on Private affairs benefits to the petitioner.

For Petitioner	: Mr.T.Antony Arul Raj
For R - 1	: Mr.M.Murugan Government Advocate
For R - 2	: Mr.K.K.Senthil

O R D E R

This Writ of Certiorarified Mandamus has been filed challenging the impugned order passed by the first respondent dated 18.06.2016, denying earned leave salary and leave on private affairs and consequently to direct the respondents to disburse the amount under the above heads.

<https://hcservices.ecourt.gov.in/hcservices/> the learned counsel for the petitioner and the learned Government Advocate for the first respondent and the



learned counsel for the second respondent.

3.The facts leading to the filing of this writ petition are as follows:-

The petitioner was appointed as Assistant Professor in Economics Department in the second respondent college in the year 1978. He was served as Principal for ten years in the second respondent college. During 2003, he was issued with a charge memo and thereafter, he was dismissed from service by the order dated 02.12.2005. Subsequently, the order of termination was cancelled by the Governing Body of the college by the resolution dated 29.05.2006 and he was reinstated in service and he served as Principal on and from 21.07.2008. The post of the petitioner was also regularised. Thereafter, a Public Interest Litigation came to be filed against the petitioner and the same was allowed and the Review Petition filed by the petitioner has been dismissed. Therefore, the order of dismissal stands confirmed as against the petitioner. In the meanwhile, the petitioner reached superannuation on 31.05.2010. But retirement benefits were not given to the petitioner on the ground that the petitioner is a dismissed employee. Challenging the same, this writ petition has been filed.

4.In the impugned order dated 18.06.2016, Rule 21 of the Tamil Nadu Pension Rules, 1978 has been relied upon and the retirement pension has been declined to the petitioner.

5.The learned counsel for the petitioner relying upon the order passed by this Court in WP(MD)No.1484 of 2016 dated 29.01.2016 contended that the petitioner is entitled to earned leave encashment benefit as well as leave on private affairs as the same pertains to the services already rendered by him and it is not a benefit that is claimed by the petitioner from the employer. The issue relating to the availability of the claim of the petitioner has been discussed and considered in the order passed by this Court in WP(MD)No.1484 of 2016 and the facts are not in dispute by the other side.

6.Under such circumstances, the impugned order dated 18.06.2016 is hereby set aside. Consequently, the respondents are directed to sanction the claim of the petitioner with reference to earned leave salary and leave on private affairs within a period of four weeks from the date of receipt of a copy of this order.

7.The writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/



To

The Regional Joint Director of Collegiate Education,
Kakkan Street, Shenoy Nagar, Madurai - 625 020.

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+1 cc to Mr.T.ANTONY ARUL RAJ, Advocate, SR 67226

+1 cc to Mr.K.K.SENTHIL, Advocate, SR 67351

W.P(MD)No.12432 of 2016

mj

SH/MPA/SAR-3:18.11.2016:3P/4C