

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.29781 of 2014

S.Manickavasagam

... Petitioner

Vs

1. The Secretary,
Animal Husbandry, Dairying & Fisheries Dept.,
Government of Tamil Nadu,
Fort St. George,
Chennai - 9.
2. The Commissioner for Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Madhavaram, Chennai - 51.
3. The General Manager,
Dharmapuri District Co-operative Milk
Producer Union,
Salem Bypass Road,
Krishnagiri - 635 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the third respondent leading to the issue of impugned letter in Ref.No.2274/ESST.1/06, dated 30.09.2014, and quash the same as it denies the due terminal benefit to the petitioner and direct the third respondent to disburse the amount of 90 days of Private Affairs Leave Encashment which the petitioner had earned during 30 years of loyal service under the third respondent together with interest at 18% per annum compounded cumulatively with effect from 01.11.2006 till the date of actual payment.

For Petitioner : Mr.M.Nagasubramanian

For R1 : Mr.T.M.Pappiah,
Special Government Pleader

For R2 & R3 : Mr.T.K.Ashok Kumar

O R D E R

Challenging the impugned proceedings dated 30.09.2014 of the third respondent / the General Manager, Dharmapuri District Cooperative Milk Producers Union, denying to pay the terminal benefits due to him, the petitioner has filed the present writ petition.

2. Heard the learned counsel appearing on either side.

3. At the time of retirement, the petitioner was holding the post of Manager/Purchase (Selection Grade) in the office of the third respondent. It is admitted case of both sides that he has received all the due terminal benefits except 90 days of Private Affairs Leave (PAL) Encashment. Therefore, he made various representations to the respondents, however, the same have been rejected on the ground that since he retired on 31.10.2006, he is not eligible to draw UEL on PAL encashment for 90 days. The third respondent had framed the Special Bylaws fixing the date of implementation as 01.04.2013 which states that any person retiring from service of the third respondent prior to 31.03.2013 cannot be given the aforesaid benefit of PAL encashment.

4. A counter affidavit filed by the third respondent states that since the petitioner retired on 31.10.2006, which is much earlier to the implementation of the Special Bylaws with effect from 01.04.2013, benefit given in the said Bylaws regarding the PAL Encashment could not be extended to him. However, now after the said Bylaws, much water has flown down upon issuance of the proceedings dated 14.12.2004 by the Managing Director of the Tamil Nadu Cooperative Milk Producers' Federation. For better appreciation, relevant portions of the said proceedings are extracted below:

"ii. At the time of retirement, encashment of leave upto maximum of 330 days shall be allowed.

For this, the privilege leave accumulated upto 240 days shall be allowed for encashment and Unearned leave on private affairs of 180 days, which shall be converted into 90 days of full pay, shall be allowed for encashment.

iii. The encashment of leave salary towards privilege leave and Unearned leave on private affairs at the time of retirement shall be based on Pay, Dearness Allowance, HRA & CCA to be paid in cash equivalent of full leave salary.

iv. To recalculate the encashment of leave salary of those employees who were already retired from 01.04.2003 and to pay the difference amount to them."

5. In the light of the above, the writ petition is allowed by quashing the impugned proceedings. Consequently, the third respondent is directed to disburse the amount of 90 days of Private Affairs Leave Encashment within a period of six weeks from the date of receipt of a copy of this order. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rkm

To

The Secretary,
Animal Husbandry, Dairying & Fisheries Dept.,
Government of Tamil Nadu,
Fort St. George,
Chennai - 9.

+lcc to Mr.T.K.Ashok Kumar, Advocate, S.R.No.44695

W.P.No.29781 of 2014

NRI (CO)
CA(05/07/2017)

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