



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.24079 of 2016

R.Alageswaran

:Petitioner

Vs.

1.The Principal District and Sessions Judge,
Tirunelveli District, Combined Court Building,
Palayamkottai, Tirunelveli District.

2.The District Treasury Officer,
Collector Office Campus, Kokkirakulam,
Tirunelveli.

:Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to pay the cash equivalent of the earned leave salary for 240 days to the petitioner based on the petitioner's representation dated 17.03.2016 and the subsequent representation dated 22.08.2016, in the light of sanction accorded by the first respondent, vide proceedings in Lib.No.3013/2016, dated 08.09.2016, within a stipulated time.

For Petitioner

: Mr.R.Karunanithi

For Respondents

: Mr.VR.Shanmuganathan

Special Government Pleader

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the second respondent to pay the cash equivalent of the earned leave salary for 240 days to the petitioner, based on his representation dated 17.03.2016 and the subsequent representation dated 22.08.2016, in the light of the sanction accorded by the first respondent, vide proceedings in Lib.No.3013/2016, dated 08.09.2016, within a stipulated time.

2. The case of the petitioner is that he joined the service in the Judicial Department as Copyist during the year 1969. Thereafter, he was promoted to various posts and finally, while he was working as Sherishtadar at the Principal District and Sessions Court, Tirunelveli, he was dismissed from service on 23.12.2004. Subsequently, he was issued with charge memo dated 24.09.2003, framing as many as six charges, out of which three charges were



held to be proved. The Disciplinary Authority accepted the findings of the Enquiry Officer and rejected the further representations submitted against the findings of the Enquiry Officer. The Disciplinary Authority imposed two separate punishments one in the form of dismissal from service and the other in the form of compulsory retirement from service.

3. The said order was challenged by the petitioner, by filing W.P.(MD).No.38511 of 2009, which was dismissed. Thereafter, the petitioner filed Special Leave Petition in SLP.No.14856 of 2013 before the Honble Supreme Court, as against the said order, which was also dismissed, on 30.08.2013. Subsequently, the petitioner filed an appeal before the Disciplinary Authority, praying for lesser punishment or at least the punishment, which was awarded to the co-delinquent officer. The said appeal was rejected, without giving any reason. The above order was challenged by the petitioner by filing W.P.(MD).No.23594 of 2015, which was also dismissed on 04.08.2015.

4. It is his further case that had the petitioner been allowed to continue in service, he would have attained the age of superannuation, on 30.04.2007 and received the retirement benefits. Thereafter, on 17.03.2016, the petitioner submitted applications before the first respondent requesting to accord sanction for the encashment of leave salary for 240 days, by virtue of the order of this Court dated 29.01.2016, made in W.P.(MD).No.1484 of 2016. However, on 14.11.2016, a show cause notice was issued by the first respondent, indicating that the sanction was accorded to encash 240 days of earned leave, as per the proceedings in Lib.No.3013/2016, dated 08.09.2016 and the bill was presented at the District Treasury Officer, Tirunelveli, on 09.09.2016. But, the above proceedings was audited by the second respondent, who, in turn, communicated to the first respondent with an endorsement as "payment of terminal benefits, such as encashment of earned leave to dismissed/removed employee does not arise". Under the above said circumstances, the petitioner is before this Court with this Writ Petition.

5. In view of the above, we are of the considered view that since the first respondent has issued only a show cause notice, it would be appropriate for the petitioner to submit his explanation for the said show cause notice and on receipt of the same, the first respondent has to pass necessary orders, taking note of the order dated 29.01.2016, made in W.P.(MD).No.1484 of 2016.

6. Accordingly, the petitioner is directed to submit his explanation to the show cause notice dated 14.11.2016 issued by the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the first respondent is directed to consider the same and pass necessary orders, taking into account the order dated 29.01.2016, made in W.P.(MD).No.1484 of 2016.



7. The Writ Petition stands disposed of in the above terms. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Principal District and Sessions Judge,
Tirunelveli District, Combined Court Building,
Palayamkottai, Tirunelveli District.

2.The District Treasury Officer,
Collector Office Campus, Kokkirakulam,
Tirunelveli.

+1cc to M/s.R.Karunanidhi, Advocate in SR.1722

+1cc to the Special Government Pleader, in SR.1978

W.P.[MD].No.24079 of 2016
09.01.2017

nb

PBK/EM-MPA/SAR-2 20.01.2017 ::3p-5c: