

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.12884 of 2013

M.G.Vijayshree

...Petitioner

Vs

- 1.The State of Tamil Nadu,
rep by the Secretary,
Adi - Dravidar and Tribal Welfare Department,
Fort.St. George,
Chennai - 600 029.
- 2.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk, Chennai - 5. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, directing the respondents to pay the arrears of salary from the year 2001 in the post of Superintendent and salary from 2011 in the post of Adi Dravidar Tribal Welfare Officer and consequently grant the Leave salary entitled by the petitioner.

For Petitioner : Mr.C.Vigneswaran

For Respondents : Mr.S.T.Jayanthi

Special Government Pleader

O R D E R

The relief sought for in the present writ petition is direct the respondents to pay the arrears of salary from the year 2001 in the post of Superintendent and salary from 2011 in the post of Adi Dravidar Tribal Welfare Officer and consequently grant the Leave salary entitled by the petitioner.

2. The petitioner claims that she was appointed as Junior Assistant on 13.10.1982. She was promoted to the post of Assistant and thereafter to the post of Superintendent in the year 2001. The petitioner was retired from the post of Superintendent in the year 2011. The

grievances of the writ petitioner is that on account of the punishments imposed on her, she could not able to get her promotions. However, the present writ petition is filed seeking the relief of salary from the year 2001 in the post of Superintendent and Salary from the year 2011.

3. With reference to the claim of the writ petitioner, the Learned Special Government Pleader appearing on behalf of the respondent states that the petitioner was on leave during 01.04.1999 to 09.11.1999 and joined on 10.11.1999. Under Medical certificate leave cannot be sanctioned more than 60 days without the opinion of the Medical Board. The case of the writ petitioner, the Medical Board recommended to grant leave other than medical certificate for a period of 04.01.1999 to 22.10.1999. The maximum earned leave that can be sanctioned at the time is 180 days, the remaining 112 days should have been sanctioned as extra ordinary leave without medical certificate. For 30.10.1999 and 31.10.1999, two days extra ordinary leave without medical certificate may be granted and for the period from 01.11.1999 to 09.11.1999 the eligible leave may be sanctioned. Based on the clarification, the leave applied by the writ petitioner from the period 01.11.1999 to 09.11.1999 was regularized vide in proceedings No.C1/55253/98 dated 23.08.2001 as given below:-

Period	Remarks
01.01.99 to 29.06.99	180 days Earned Leave
30.06.99 to 19.10.99	112 days Extra-ordinary Leave without Allowances
20.10.99 to 22.10.99	3 days Extra-Ordinary Leave without Allowances
23.10.99 to 29.10.99	7 days unearned leave on Medical Certificate
30.10.99 to 31.10.99	2 days Extra - Ordinary leave without allowances
10.11.99 to 09.11.99	9 days Half pay leave on Private affairs.

4. With regard to the eligibility of the writ petitioner, the counter states as follows in para 12 and 15 which is extracted hereunder:-

"With regard to the averments made in ground (A) of the affidavit, it is submitted that the statement of the petitioner is incorrect. In view of the common order delivered by this Hon'ble Court, Madras, dated 23.12.2011, the respondents have passed following orders for implementing the Court Direction:-

(i) Revised panel in the cadre of Superintendent as on 15.03.2001 has been ordered by the Commissioner of Adi Dravidar Welfare, Chennai in proceedings R.C.No.C1/53389/2001-1, 2 and 3 dated 20.02.2013. These orders are making effect to the petitioner for notional promotion from 12.10.2001 in the cadre of Superintendent and for the purpose of calculation of pension and retirement benefits as ordered in the order dated 23.12.2011 of this Hon'ble Court.

(ii) The Government have issued orders in G.O. (Ms) No.33, Adi Dravidar and Tribal Welfare Department dated 28.05.2013, revising the panel of Superintendents fit for promotion to the post of District Adi Dravidar and Tribal Welfare Officer for the year 2010-2011 and including her name above the name of her junio as SI.No.3(A) and notional promotion in the post of District Adi Dravidar and Tribal Welfare Officer was given w.e.f.01.02.2011 for the purpose of calculation of pension and retirement benefits.

(iii) Based on the above Government orders, the petitioner's pay has been fixed with effect from 01.02.2011 in the cadre of District Adi Dravidar and tribal Welfare Officer, for the purpose of calculation of pension and retirement benefits, vide the Director of Adi Dravidar Welfare's proceedings R.C.No.C1/53389/01, Dated 26.06.2013.

With regard to the averments made in para 13 of the affidavit, it is submitted that the petitioner was on leave from 04.01.1999 to 09.11.1999 and joined duty on 10.11.1999. Unearned Leave on Medical Certificate cannot be sanctioned more than 60 days without the opinion from the Medical Board. In this case, the Medical Board has recommended to grant leave other than Medical Leave for the period of 04.01.1999 to 22.10.1999. The maximum Earned Leave that can be sanctioned at a time upto 180 days. The remaining 112 days should have been sanctioned as Extra - Ordinary Leave without Medical Certificate. For 30.10.1999 and 31.10.99, 2 days extra -Ordinary Leave without Medical certificate had been sanctioned and for the period of 01.11.1999 to 09.11.1999, the eligible leave of half pay leave on private affairs had been sanctioned for the above 9 days. Hence, the leave applied by the petitioner cannot be sanctioned as Medical Leave based on the opinion offered by the Medical Board as she has not produced any documentary evidence for undergone medical treatment. Therefore, the writ petitioner is not entitled for leave salary."

5. This Court is of an opinion that the leave application submitted by the writ petitioner was dealt with in accordance with Rules and accordingly, the benefit of eligible leave were granted in favor of the writ petitioner and other leave period were treated as an extra ordinary leave as per the Rules in force. If at all the petitioner is aggrieved from and out of any such order it is left open to the writ petitioner to approach the Appellate Authority challenging the said order passed by the Competent Authorities. Contrarily, the present writ petition filed for a direction to grant leave salary from the year 2001 cannot be granted by this Court in the present writ petition. The breakup details regarding the leave period and eligibility criteria as per the leave Rules are to be considered only by the Competent Authorities. Thus, if the writ petitioner is still aggrieved it is left open to her to approach the Competent Authorities or the Appellate Authorities in the manner known to law.

6. With these observations the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/--

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

jas/pkn

To

1.The Secretary,
State of Tamil Nadu,
Adi - Dravidar and Tribal Welfare Department,
Fort.St. George,
Chennai - 600 029.

2.The Commissioner,
Adi-Dravidar and Tribal Welfare Department,
Chepauk,
Chennai - 5.

+1cc to Mr.C.Vigneswaran , Advocate SR.No. 74466
+1 CC TO GOVERNMENT PLEADER SR.NO. 75352

W.P.No.12884 of 2013

ASK(26/11/2018)