

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29668 of 2019

S.Manimozhi

.. Petitioner

-vs-

The Tamil Nadu Civil Supplies Corporation,
Rep by its Managing Director,
10, Thambuswamy Road, Chennai-10

.. Respondent

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings Na.Ka.No.AE1/91558/2014 dated 23.09.2019 of the respondent, quash the same and consequently direct the respondent to release the accumulated earned leave and Leave on Private Affairs standing to her credit as on 28.02.2015, the date of her retirement from service, without any further delay.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.C.Munusamy,
Standing Counsel

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The case of the petitioner is that the petitioner was employed as Deputy Manager (Movement) in the respondent corporation, and she was permitted to retire from service on 28.02.2015 pending recoveries. Her terminal benefits like gratuity and encashment of earned leave were denied, and later she was imposed recovery of Rs.12,09,589/- besides stoppage of increment for two years with cumulative effect. After intervention by the authority under the Gratuity Act, gratuity was paid. However encashment of earned leave was denied. The petitioner gave representation and after intervention of this Court and after contempt proceedings being initiated the respondent finally denied the payment citing pendency of W.P.No.4528 of 2018. Challenging the same, the petitioner has filed this writ petition.

3.Mr.S.Venkataraman, learned counsel appearing for the petitioner submits that already the similar issue has been considered in Civil Appeal No.6770 of 2013, wherein the Hon'ble Apex Court has held that the petitioner is entitled to get a part of pension, gratuity and encashment of earned leave. Therefore, he seeks for allowing this writ petition.

4.Mr.C.Munusamy, learned Standing Counsel for the respondent did not dispute the above fact.

5.Heard both sides.

6.The petitioner voluntarily retired from service on 28.02.2015 pending recoveries and finally she was imposed punishment. On perusal of the above position, it is made clear that under Article 300 A of the Constitution, a person cannot be deprived of pension with the authority of law. Therefore, the petitioner is entitled to receive the gratuity and even encashment of earned leave. Hence, the impugned order passed by the authority is unsustainable one.

7.Accordingly, the writ petition is allowed and the impugned order passed by the respondent is quashed. Consequently, the respondent is directed to release the accumulated earned leave and leave on private affairs standing on her credit as on 28.02.2015. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
10, Thambuswamy Road, Chennai-10.

+1 cc to M/s.S.Venkataramana, Advocate Sr.No. 86735
+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No.87180
+1 cc to The Government Pleader, SR.No.87747

AKM/31.10.19/2P-5C/

W.P.No.29668 of 2019