

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 29678 of 2019

V.Jotheeswari

..Petitioner

vs

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

.. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records relating to the proceedings Na ka No.E 7/17087/2015 dated 16.09.2019 of the respondent, quash the same and consequently direct the respondent to release the accumulated earned leave and leave on private affairs standing in her credit as on 30.06.2015, the date of her retirement from service, without any further delay.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is to call for records relating to the proceedings Na ka No.E 7/17087/2015 dated 16.09.2019 of the respondent, quash the same and consequently direct the respondent to release the accumulated earned leave and leave on private affairs standing in her credit as on 30.06.2015, the date of her retirement from service, without any further delay.

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

3. 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 30.06.2015 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.26113 of 2017. Challenging the same, the petitioner has filed this writ petition.

4. 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.

5. Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondent did not dispute the above fact.

6. Heard both sides.

7. The petitioner voluntarily retired from service on 30.06.2015 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.

8. 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 30.06.2015. No costs.

WEB COPY

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kan

To

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

+1cc to Mr.S.Venkataraman, Advocate, S.R.No.87409

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.87813

W.P.No.29678 of 2019

NMI (CO)
CS/02/12/2019



WEB COPY