

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 15.07.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) .No.3355 of 2014****WEB COPY**

B.Venkatasubbarao

... Petitioner

-Vs-

The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye-pass Road,
Madurai-625 016.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pay the encashment of unearned leave on private affairs to the petitioner.

For Petitioner : Mr.C.Thangamani
For Respondent : Mr.A.Jeyaram

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondent to pay the encashment of unearned leave on private affairs to the petitioner.

2.The writ petitioner was an employee of the respondent/Transport Corporation and retired from service as Manager on 31.01.2009. In respect of the relief sought for in the present writ petition, the same had already been considered by the Division Bench of this Court in Writ Appeal (MD).No.939 to 944 of 2017, dated 27.03.2018. The relevant paragraphs of the order of the Division Bench are extracted hereunder:

"10.Insofar as the decision in the case of Tamil Nadu Tata Plantation Corporation Limited is concerned, we find that the case is factually different and taking note of the conduct of the respondents in the said case, the Division Bench had issued the direction. In any event, we find that the correctness of the said decision has been challenged before the Honourable Supreme Court and stay of the Judgment has been granted in S.L.P.No.23510-23513/2016, dated 14.12.2016.

11.As noticed above, there is a separate Service Rule for the employees of the appellants/Transport Corporation. Annexure-II of the common Service Rules deals with Unearned Leave and on perusal of the said Rules, we find that there is no such Leave Rule called as unearned leave on private affairs. Thus, unless and until, such a leave is contemplated under the Service Rule, the question of encashment does not arise. It is to be noted that all



the respondents/writ petitioners have all served in the appellants/Transport Corporation and were bound by the Service Rules framed by the Corporation. Therefore, at this distant point of time, after they attained the age of superannuation, the question of claiming such a benefit does not arise.

12. In the result, these Writ Appeals are allowed and the order dated 02.12.2016 passed in W.P.(MD).Nos.2323, 18731, 18732, 18736, 20830, 20831, 20836, 20003, 20004, 21517 and 22882 of 2016 are set aside and the writ petitions are dismissed. The other writ petitions, which has been posted along with the Writ appeals, are also dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

3. In view of the fact that the writ appeals filed by the Transport Corporation are allowed by the Division Bench, the relief as such sought for in the present writ petition cannot be granted. Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bye-pass Road,
Madurai-625 016.

+1 cc Mr.C.THANGAMANI, Advocate, SR.No. 75551

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KK/SAR/01.08.2019/2P-3C/