

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.20242 of 2007

D.Namakrishnamony ... Petitioner

Vs.

1.The Director,
The Tamil Nadu Fire and Rescue Service,
Egmore, Chennai - 8.

2.The Public Information Officer,
Office of the Directorate of Tamil Nadu
Fire and Rescue Service,
Egmore, Chennai. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the proceedings of the 2nd respondent N.K.No.4875/E3/2007 dated 20.03.2007 and quash the same and consequently direct the 1st respondent to grant the petitioner the Gratuity and Surrendered Earned Leave together with interest at 12% payable from the dates of relief viz., 20.09.2004.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : MR.K.Magesh

ORDER

The petitioner has filed this writ petition challenging the proceedings of the 2nd respondent N.K.No.4875/E3/2007 dated 20.03.2007.

2. Originally, the petitioner was appointed as Firemen in Tamil Nadu Fire and Rescue Service on 09.09.1996 and was posted to Nagercoil in Kanyakumar Division. After putting eight years of service in the said post, he got appointment in Nuclear Power Corporation Limited, Kudankulam as Leading Fireman "A" and hence, he was relived from service on 20.09.2004 and assumed charge as Leading Fireman "A" in Nuclear Power Corporation Limited, Kudankulam. Thereafter on 08.03.2007, the petitioner made a representation to the Tamil Nadu Fire and Rescue Service for grant of General Provident

Fund, Pay Commission arrears, Gratuity and Surrendered Earned Leave standing to his credit. The second respondent considered the said representation and General Provident Fund, Pay Commission arrears and Family Benefit fund were settled to the petitioner. However, rejected his claim of surrendered earned leave and gratuity vide proceedings in N.K.No.4875/E3/2007. Challenging the same, this writ petition has been filed by the petitioner.

3. Heard learned counsel for the petitioner and learned Special Government Pleader appearing for the respondents.

4. Learned counsel for the petitioner would submit that since the petitioner has completed eight years of service which is more than five years, he is eligible for gratuity as per the Gratuity Rules and also eligible for encashment of unearned leave. He has also submitted that the reasoning of the second respondent for rejection of claim is against the rule provisions viz Rules 43 and 45 of the Tamil Nadu Pension Rules read with Rule 23 of Tamil Nadu Pension Rules.

5. Learned Special Government Pleader would submit that he has not completed service of 10 years. Further grant of service gratuity even for the services rendered less than ten years is applicable only for the Government Servant retiring from Government service as per Rules 43 and 45 of the Tamil Nadu Pension Rules. Whereas the petitioner was not relieved from the Department after his retirement, but he was actually relieved from the department while he was serving in the department to take up another appointment in Central Government Organisation on his own willingness and hence, the question of granting encashment of Earned leave as eligible to a retired Government Servant does not arise. Therefore the claim of the petitioner was rightly rejected by the respondent and hence, there is no merit in this writ petition.

6. Admittedly, the petitioner was originally appointed as Firemen in Tamil Nadu Fire and Rescue Service on 09.09.1996. Subsequently, he was relieved from said post on 20.09.2004 and he assumed charge as Leading Fireman "A" in Nuclear Power Corporation Limited, Kudankulam. The claim of the petitioner is since he was putting in service in parent department for more than eight years, he is entitled for gratuity and also for encashment of earned leave. Therefore as contended by the learned Special Government Pleader that the grant of service gratuity for the services rendered less than ten years is applicable only for the Government Servant retiring from Government service as per Rules 43 and 45 of the Tamil Nadu Pension Rules. Since the petitioner was relieved from State Government Organisation after rendering only eight years of service to take up another appointment in Central Government Organisation on his own willingness, he is not eligible for grant of Gratuity and encashment of Earned Leave as per Rule 43 and 45 of the Tamil Nadu Pension Rule.

7. This Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Asst. Registrar(CS)

//True Copy//

Sub Asst. Registrar

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To

1.The Director,
The Tamil Nadu Fire and Rescue Service,
Egmore, Chennai - 8.

2.The Public Information Officer,
Office of the Directorate of Tamil Nadu
Fire and Rescue Service,
Egmore, Chennai.

+1 CC TO THE GOVERNMENT PLEADER IN SR.NO.37975

W.P.No.20242 of 2007

PA(CO)
VC (19/12/2020)

24.11.2020