



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.11032 of 2015

WEB COPY

V.Karuppasamy

... Petitioner

Vs.

The Additional Superintendent of Police,
Tirunelveli,
Tirunelveli District.

... Respondent

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.R2/ML/14887/14 dated 20.04.2015 and quash the same and consequently, direct the respondent to disburse the deducted leave salary amount of Rs.70,000/- for 96 days from his service benefits forthwith.

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.P.Mahendran

Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order dated 20.04.2015 with reference to the regularization of leave periods.

2.The grievances of the writ petitioner is that the leave encasement benefits were not granted properly to the writ petitioner and therefore, the said leave encasement is to be granted for the entire period and accordingly, the pension is to be revised.

3.The learned Additional Government Pleader appearing on behalf of the respondent solicited the attention of this Court by stating that the entire period of leave has been regularized properly in accordance with the rules and the pension benefits were settled in favour of the writ petitioner. In this regard, para 10 of the counter affidavit is extracted hereunder:

"10.With regards to the averments made in para 3, it is submitted that the petitioner had availed medical leave to 00-00-104 days during the period from 04.07.2008 to 24.06.2009 in the following occasion the details thereof are furnished hereunder:

04.07.2008 to 23.07.2008

00-00-20 days

24.07.2008 to 02.08.2008

00-00-10 days



03.08.2008 - 00-00-01 day
 O.P
 11.08.2008 to 30.10.2008 00-00-20 days
 31.10.2008 to 14.11.2008 00-00-15 days
 18.05.2009 to 16.06.2009 00-00-30 days
 17.06.2009 to 23.06.2009 00-00-07 days
 24.06.2009 - 00-00-01 days
 O.P

Total**00-00-104 days**

It is submitted that as per G.O.Ms.No.411 P&AR (FR 3) Department dated 05.04.1980, a Government Servant / Police person who enters on medical leave shall apply to the concerned authority within 3 days from the date of his availing medical leave to the effect that the spell of leave availed by him through medical certificate may be sanctioned from him unearned leave (on medical certificate) account by submitting medical certificate also and in unavoidable circumstances such application can be submitted to the authorities within 7 days. Moreover, it was also ordered by Government that if such procedure is followed, the individual can be sanctioned from his unearned leave (Medical certificate) account and the leave availed by him may be debited from the unearned leave account. Further, if such procedure is not followed by the individual, then he shall be sanctioned that leave only from the earned leave account and if there is exhausted and not eligible, he shall be sanctioned leave without pay (Medical certificate) alone to the extent necessary. It is submitted that the petitioner availed the above medical leave in various spell without submitting application applying to debit the above medical leave from his unearned leave (Medical Certificate) account. Hence, the Superintendent of Police, Tirunelveli debited the above medical leave period from his earned leave account. At the time of retirement on superannuation, 00-00-144 days of earned leave were available at his credit and the same was encashed through the proceedings of the Superintendent of Police, Tirunelveli, in C.No.F1/Pen.52/2010, dated 20.09.2010. Hence, it is submitted that the contention of the petitioner is baseless and imaginary."

4.The present writ petition is filed by the petitioner at the age of 63 years, after a lapse of 5 years from the date of retirement. The writ petitioner has retired from service on 30.06.2010 and receiving the pensionary benefits. This being the factum, if the petitioner is having any grievances, it is left open to him to approach the competent authority. As far as the leave benefits are concerned, the entire leave period has been regularized by the authorities competent with reference to the rules in force and therefore, the relief as such sought for in this writ petition



WEB COPY

WP(MD).No.11032 of 2015

cannot be granted and accordingly, this Writ Petition stands disposed of.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns

To

The Additional Superintendent of Police,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.K.PRABHU, Advocate (SR-23439[F] dated 01/12/2020)

W.P. (MD) No.11032 of 2015
30.11.2020

SSS (CO)

KB(17.12.2020) 3P 3C