



WEB COPY

W.P.(MD).No.3132 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD).No.3132 of 2013

and

M.P.(MD) No.1 of 2013

Thangamuthu

.. Petitioner

Vs.

1.The Garrison Engineer

Naval Base Post,

Vijayanarayanam,

Tirunelveli - 627 119.

2.The Commander Work Engineer

(Navy), St. Thomas Ford,

Chennai - 9.

3.The Chief Engineer

Southern Command,

Pune - 1.

4.The Chief Engineer (Navy)

Station Road,

Visakapatnam - 530 004.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to disburse monetary benefits payable to the petitioner for the service rendered by him without availing the eligible leave during his service period, considering his representation, dated 27.01.2011.

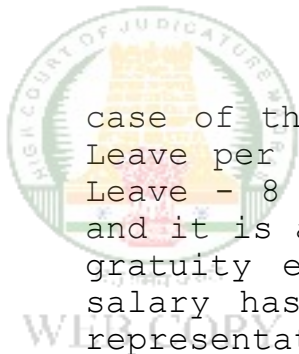
For Petitioner : Mr.S.Ramesh

For Respondents : Mrs.L.Victoria Gowri,
Central Government Standing Counsel

O R D E R

This writ petition is filed for issuance of writ of Mandamus to direct the first respondent to disburse the monetary benefits payable to the petitioner for the service rendered by him without availing the eligible leave during the service period.

2.The petitioner joined in service with the first respondent on 16.10.1988, as Motor Technical Driver (MTD) as Grade-II. The petitioner came after a short period in Army. It is the



case of the petitioner that he is eligible for availing (a) Earned Leave per year - 30 days, (b) Half pay leave - 20 days, (c) Casual Leave - 8 days. The petitioner retired from service on 30.06.2012 and it is admitted that his retirement benefits like provident fund, gratuity etc., are all settled. However, the petitioner's leave salary has not been settled. The petitioner specifically sent a representation to the respondents to sanction the leave encashment amount, since the respondents have not disbursed the amount, it is submitted that the respondent should be directed to pay the amount towards Earned Leave, Half pay leave, and Casual leave.

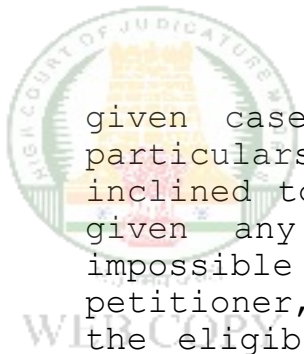
3.The grievance of the petitioner is that the petitioner is entitled to get salary for a period of 168 days, whereas, the petitioner's leave salary has been disbursed covering only 104 days.

4.The learned counsel appearing for the respondents has produced the working sheet towards the claim of petitioner's leave encashment. In the working sheet submitted by the respondents, it is stated that the petitioner is entitled to encash 104 days of leave. There is no dispute about the eligibility. The dispute is only regarding the number of days for which the petitioner is entitled to encash.

5. The question is whether it is 168 days as claimed by the petitioner or 104 days, cannot be resolved without having the basic records. Though the petitioner states that he is eligible for the leave salary for 168 days, this Court is unable to get any supportive documents from the petitioner. The petitioner ought to have approached the respondents before coming to this Court, if there is any factual controversy.

6. This court is unable to accept the case of the petitioner that he is entitled to get leave salary for 168 days. This Court finds no merit in the writ petition. The petitioner has not produced any scrap of paper about the leave availed by him or to show that the petitioner is entitled to leave salary for more than the period, for which the amount has now been disbursed to the petitioner. The respondents have produced before this Court a few documents and submitted that the petitioner is entitled to earned leave of 85 days only. The learned counsel for the petitioner is unable to demonstrate, how the petitioner is entitled to leave salary for 168 days.

7.As pointed out by the learned counsel for the respondents a sum of Rs.73,788/- has already been paid to the petitioner towards encashment of leave. The petitioner is entitled to encashment of leave for 85 days and encashment of half pay leave for 19 days. Barring this, the entitlement of the petitioner is not shown before this Court by producing relevant documents. Since a specific stand was taken by the respondents in their counter-affidavit, this Court is unable to go beyond the records. Though it is possible in a



given case to request the respondents to furnish the necessary particulars which are available with them, this Court is not inclined to exercise such power, as the petitioner himself has not given any particulars regarding his service period. It is impossible for the respondents to accept the demand of the petitioner, unless it is established by the petitioner that he has the eligibility, as claimed. Hence, this Court does not find any merit in this writ petition.

8. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

RM

To

- 1.The Garrison Engineer
Naval Base Post,
Vijayanarayanam, Tirunelveli - 627 119.
- 2.The Commander Work Engineer
(Navy), St. Thomas Ford, Chennai - 9.
- 3.The Chief Engineer
Southern Command, Pune - 1.
- 4.The Chief Engineer (Navy)
Station Road, Visakapatnam - 530 004.

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-25473[F] dated 06/08/2021)

W.P. (MD) .No.3132 of 2013
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