



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.22331 of 2016

WEB COPY

M.A.Madhavan

.. Petitioner

Vs.

1.The Chairman - cum Managing Director,
United India Insurance Company Ltd.,
Head Office,
Whites Road,
Chennai.

2.The Chief Regional Manager,
United India Insurance Company Ltd.,
Regional Office,
West Veli Street,
Madurai.

3.The Senior Branch Manager,
United India Insurance Company Ltd.,
Seethalakshmi Complex,
Thirunagar,
Madurai-625 006.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Ref.No.090401/PER.MKTG/91/16-17 dated 15.11.2016 and quash the same as illegal and consequently directing the respondents to settle the encashment of earned leave with applicable interest to the petitioner within a time frame fixed by this Court.

For Petitioner	: Mr.Pradeep for Mr.B.Saravanan
For Respondents	: Mr.N.Dilipkumar

ORDER

This Writ Petition is filed for issuance of a writ of Certiorarified Mandamus to quash the impugned order passed by the third respondent in his proceedings in Ref.No.090401/PER.MKTG/91/16-17 dated 15.11.2016 and to direct the respondents to settle the encashment of earned leave with applicable interest to the petitioner.



2.The petitioner was appointed as an Inspector in the respondent Insurance Company. The petitioner was posted in the third respondent Branch in the year 1991. While the petitioner was in service, an enquiry was conducted against him on the allegation that the petitioner issued an anti-dated cover note. Following the charge sheet and the enquiry, the punishment was imposed on the petitioner by denying 10 increments. Later, the case was referred to CBI for investigation. After investigation, a trial was conducted for the offences under Sections 420, 468 r/w. 471 and 477A of IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. It is also admitted that the petitioner was dismissed from service following the verdict of the Criminal Court. By the impugned order, the request of the petitioner for encashment of earned leave was declined on the ground that the petitioner, who has been dismissed from service, is not entitled for encashment of earned leave.

3.The grievance of the petitioner is that the petitioner was denied earned leave encashment. The petitioner, who was terminated from service, is not entitled to all the terminal benefits, unless it is otherwise provided by Service Rules.

4.The learned counsel appearing for the petitioner relied upon the judgment of the Division Bench of this Court, in the case of ***The State rep. by the Principal Secretary and others -vs- M.Vijayaram***, dated 06.09.2019, wherein this Court has held that a person, who was dismissed from service is entitled to get earned leave encashment. However, the learned counsel appearing for the respondents relied upon the judgment of Full Bench of Punjab and Haryana High Court, in the case of ***Punjab State Civil Supplies Corporation Ltd., & Others -vs- Pyare Lal***, reported in ***AIR 2014 Punjab & Haryana 147***. wherein it is held that no benefit of the said service which stood forfeited can be extended to an employee in any manner unless an exception is made out by Government or by Service Rules. The Central Government has framed a scheme to regulate termination, superannuation vide General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976. Paragraph 4 of the scheme deals with superannuation and retirement. Sub-paragraph 5 of paragraph 4 provide for payment of cash equivalent of leave salary in respect of the period of earned leave at his credit as on the date of retirement. However, as per proviso to sub-paragraph 5 of paragraph 4 of the Scheme, a person dismissed from service in accordance with Service Rules is not entitled to the benefit of sub-Paragraph 5 of Para 4. Following the judgment of Hon'ble Supreme Court, the Full Bench of Punjab and Haryana High Court made a distinction that if the right to withhold leave encashment is part of a statutory rule, or law then the benefit of leave encashment cannot be claimed as a component earned by the employee.



5. Since withholding earned leave encashment is part of the statutory rules in this case, this Court is unable to find any other valid point to interfere with the order passed by the respondents. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

+1 CC to M/s.SPL.GP (SR-33657[F] dated 08/11/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-33579[F] dated 02/11/2021)

+1 CC to M/s.B.SARAVANAN, Advocate (SR-33600[F] dated 02/11/2021)

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