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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

Coram:

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.Nos.15476 of 2020

N.Balakrishnan

.. Petitioner

Vs

1. The Secretary to Government,
Animal Husbandry Dairying and Fisheries Department,
Fort St.George,
Chennai - 600 009.
 2. The Commissioner for Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051
 3. The General Manager,
Dharmapuri District Co-operative Milk Producer Union,
Salem Byepass Road,
Dharmapuri at
Krishnagiri - 635 002.
- .. Respondents

Prayer

This Writ Petition is filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus to direct the respondents to disburse the amount of 90 days of private affairs leave encashment together with interest @ 18% p.a. for the delayed period from 31.03.2012 till the date of payment at the earliest.

For Petitioner .. Mr.S.Mohan

For Respondents .. Mr.L.S.M.Hasan fizal,
Additional Government Pleader
for R1
Mr.U.Bharanidaran
Additional Government Pleader
for R2
Mr.R.Bala Ramesh
Standing Counsel for R3



ORDER

This writ petition has been to issue a Writ of Mandamus to direct the respondents to disburse the amount of 90 days of Private Affairs Leave Encashment together with interest @ 18% p.a. for the delayed period from 31.03.2012 till the date of payment at the earliest.

2. When the matter is taken up for hearing, the learned counsel for the petitioner would draw the attention of this Court to a decision rendered by this Court in W.P.No.29781/2014 dated 27.06.2017, wherein the learned Judge of this Court, while dealing with the identical prayer, has allowed the writ petition. The order of the learned Judge, considering the similar claim is extracted as under.

3. At the time of retirement, the petitioner was holding the post of Manager/Purchase (Selection Grade) in the office of the third respondent. It is admitted case of both sides that he has received all the due terminal benefits except 90 days of Private Affairs Leave (PAL) Encashment. Therefore, he made various representations to the respondents, however, the same have been rejected on the ground that since he retired on 31.10.2006, he is not eligible to draw UEL on PAL encashment for 90 days. The third respondent had framed the Special Bylaws fixing the date of implementation as 01.04.2013 which states that any person retiring from service of the third respondent prior to 31.03.2013 cannot be given the aforesaid benefit of PAL encashment.

4. A counter affidavit filed by the third respondent states that since the petitioner retired on 31.10.2006, which is much earlier to the implementation of the Special Bylaws with effect from 01.04.2013, benefit given in the said Bylaws regarding the PAL Encashment could not be extended to him. However, now after the said Bylaws, much water has flown down upon issuance of the proceedings dated 14.12.2004 by the Managing Director of the Tamil Nadu Cooperative Milk Producers' Federation. For better appreciation, relevant portions of the said proceedings are extracted below:

"ii. At the time of retirement, encashment of leave upto maximum of 330 days shall be allowed. For this, the



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privilege leave accumulated upto 240 days shall be allowed for encashment and Unearned leave on private affairs of 180 days, which shall be converted into 90 days of full pay, shall be allowed for encashment.

iii. The encashment of leave salary towards privilege leave and Unearned leave on private affairs at the time of retirement shall be based on Pay, Dearness Allowance, HRA & CCA to be paid in cash equivalent of full leave salary.

iv. To recalculate the encashment of leave salary of those employees who were already retired from 01.04.2003 and to pay the difference amount to them.

5. In the light of the above, the writ petition is allowed by quashing the impugned proceedings. Consequently, the third respondent is directed to disburse the amount of 90 days of Private Affairs Leave Encashment within a period of six weeks from the date of receipt of a copy of this order. No Costs.

3. The order was taken on appeal in W.A.No.1137 of 2018 and the Division Bench of this Court, by its order dated 28.06.2018, dismissed the Writ Appeal by confirming the order of the learned single Judge as extracted above.

4. On behalf of the 3rd respondent, Mr.R.Bala Ramesh appeared and he has fairly submitted that the issue is squarely covered by the above decision of the learned single Judge as confirmed by the Division Bench of this Court. Further, according to the learned counsel, the 3rd respondent is facing extreme financial strain and would request this Court to grant sufficient time to make the payments that are due and payable to the petitioner.

5. Considering the submissions of the learned counsel for the 3rd respondent and also that the issue being squarely covered by the above decision of this Court, the Writ Petition is allowed with the following directions.

i. The 3rd respondent is directed to disburse the amount of 90 days of Private Affairs Leave Encashment within a period of 12 weeks from the date of receipt of a copy of this order.

ii. The above time has been given to comply with the direction only on the basis of the request made by the learned



counsel for the 3rd respondent and the 3rd respondent shall therefore, ensure that the direction of this Court is complied with within the time stipulated as above. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary to Government,
Animal Husbandry Dairying and Fisheries Department,
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Chennai - 600 009.
2. The Commissioner for Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051
3. The General Manager,
Dharmapuri District Co-operative Milk Producer Union,
Salem Bypass Road,
Dharmapuri at
Krishnagiri - 635 002.

+1cc to Mr.R.Bala Ramesh, Advocate, S.R.No.1733
+1cc to Mr.S.Mohan , Advocate, S.R.No.2306
+1cc to the Government Pleader, S.R.No.1951

W.P.Nos.15476 of 2020

PMK(CO)
CT 25/03/2022