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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.13103 of 2014
and M.P.Nos.1 & 2 of 2014

J.Natarajan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Agriculture Department,
Chennai - 9.
- 2.Commissioner of Agriculture,
Chepauk, Chennai - 5.
- 3.The Joint Director of Agriculture,
Nagarcoil, Kanyakumari District.
- 4.The Principal Accountant General (A & E),
Tenampet, Chennai - 18.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of 3rd respondent in his proceedings Letter No.Ni4/11755/2013(1) dated 22/01/2014 and Letter No.Ni4/11755/2013 dated 28/03/2014 and quash the same and consequently direct the respondents to pay the Leave Surrender Salary and bonus to the petitioner w.e.f the date of regularisation i.e., 31.12.1984.

For Petitioner :Mr.R.Singaravelan,
Senior Counsel
for M/s.M.Srividhya

For Respondents :Mr.C.Selvaraj, [for R1 to R3]
Additional Government Pleader
Mr.S.Balaji [for R4]



ORDER

WEB COPY The petitioner herein, had joined the services under the third respondent on 31.12.1984. Though he was serving for more than 25 years, his service was not regularised, which prompted him to file a Writ Petition in W.P.(MD).No.10941 of 2009 and by an order dated 29.10.2009, his services were regularised from 31.12.1984 onwards through G.O.Ms.No.78 Agriculture Department dated 25.04.2011. In the regularisation order, it was stated that the petitioner's service is regularised from 31.12.1984, together with all service and monetary benefits. Thereafter, the petitioner had retired from service on 31.01.2013, at which point of time, the retirement benefits, except the Earned Leave Salaries, were paid to him. The petitioner's claim for payment of the surrendered Earned Leave, came to be rejected through the impugned order dated 28.03.2014, stating that the same has already been paid.

2. In the counter-affidavit filed by the respondents, it is admitted that such claim for Leave Surrender Salary was not paid, since the petitioner has not applied for surrendering Earned Leave, within one month from the date of his regularisation as per G.O.Ms.No.1089, P & AR Department dated 01.11.1980.

3. Apparently, this is not the reason cited in the impugned order. It is needless to point out that the respondents cannot deviate and improve on their contention from the impugned order, through filing of the counter affidavit. Even otherwise, when this Court had passed orders, directing the respondents to regularise the service of the petitioner, the order of regularisation dated 25.04.2011, which regularises the services from the date of his initial appointment, had ordered for extension of all the service and monetary benefits. Obviously, such service and monetary benefits would also entitle the petitioner to receive his surrendered leave salary. It is rather unfortunate that the petitioner had been driven to file Writ Petitions before this Court on more than two occasions, for the purpose of regularisation and disbursement of his retirement benefits.

4. Even otherwise, since this Court had earlier passed orders to regularise the petitioner's service from the date of his initial appointment, together with all the service and



monetary benefits, the third respondent is not justified in denying the benefits on the ground that the petitioner had not surrendered his leave within one month from his regularisation. Above all, this is not the reason assigned in the impugned order and is an afterthought, which is impermissible.

5. In view of the orders of this Court, granting him service and monetary benefits and also by taking note of the fact that the third respondent herein, is blowing hot and cold in the impugned order by stating that the Earned Leave Salary is settled and taking contrary stand in the counter-affidavit, this Court is of the view that the petitioner would be entitled for payment of the Earned Leave Salary from 31.12.1984 onwards, together with interest @ 6% p.a.

6. In the light of the above findings and observations, the impugned orders dated 22.01.2014 and 28.03.2014, are quashed. Consequently, there shall be a direction to the first respondent herein, to pass appropriate orders, granting payment of Leave Surrender Salary, with effect from 31.12.1984, together with interest @ 6% p.a., till the date of actual payment. The first respondent herein, shall pass such orders, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition stands allowed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
State of Tamil Nadu,
Agriculture Department,
Chennai - 9.

2.Commissioner of Agriculture,
Chepauk, Chennai - 5.



3.The Joint Director of Agriculture,
Nagarcoil, Kanyakumari District.

4.The Principal Accountant General (A & E),
Tenampet, Chennai - 18.

+1 cc to Mr.S.Balaji Advocate sr 29339

+1 cc to the Government Pleader High Court, Madras
in SR.No.30417

+1 cc to Mr.I Saddam Hussain, Advocate sr30339

W.P.No.13103 of 2014

ss(co)
aa01/06/2022