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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.24514 OF 2021

N.R.Kothandan

... Petitioner

.Vs.

1. The Assistant Director of Survey,
Collectorate,
Thiruvallur.

2. The Tahsildar,
Pallipat,
Thiruvallur District.

... Respondents

PRAYER:- This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, to direct the first and second respondents to consider the petitioner representations, dated 16.09.2020 and 14.06.2021 and consequently direct the first respondent to sanction three installments of 6th pay commission arrears to the tune of Rs.32,571/- (Rupees Thirty Two Thousand Five Hundred and Seventy One Only) and to sanction the payment of cash equivalent of Earned Leave of 225 days and 180 days of Unearned leave on Private Affairs at the credit of the petitioner on 18.11.2009 and consequently direct the second respondent to draw and disburse the said amounts to the petitioner.

For Petitioner : Mr.D.Sivaraam

For Respondents : Mr.S.Rajesh
Government Advocate

O R D E R

This writ petition has been filed to direct the first and second respondents to consider the petitioner representations, dated 16.09.2020 and 14.06.2021 and consequently direct the first respondent to sanction three installments of 6th pay commission arrears to the tune of Rs.32,571/- (Rupees Thirty Two



Thousand Five Hundred and Seventy One Only) and to sanction the payment of cash equivalent of Earned Leave of 225 days and 180 days of Unearned leave on Private Affairs at the credit of the petitioner on 18.11.2009 and consequently direct the second respondent to draw and disburse the said amounts to the petitioner.

2. Brief facts of the case:

(i). The petitioner service as Field Surveyor has been regularized from 03.11.1997, in Proceedings No.A1/6331/06, dated 19.09.2006 issued by the Assistant Director of Survey, Kanchipuram. Subsequently, he was trapped and arrested and in consequence convicted. Therefore, he was dismissed from his service on 18.11.2009 by the Assistant Director of Survey, Thiruvallur, in his proceedings No.A5/8559/2003, dated 18.11.2009.

(ii). Further, on the date dismissal from service, the petitioner had cash equivalent of 225 days of earned leave and 180 days of unearned leave on private affairs in his credit, but the same was not paid to the petitioner; further three installments of 6th pay commission arrears to the tune of Rs.32,571/- should have been paid to the petitioner for the years 2009 to 2012, but same has not been paid to the petitioner so far;

(iii). Hence, he has given a representation dated 16.09.2020 to the first respondent to pay the two installments of 6th Pay Commission arrears and another representation to the second respondent dated 14.06.2021 to pay the cash equivalent of earned leave and unearned leave on private affairs. Thereafter, the first respondent in his letter No.A6/1989/2020, dated 23.11.2020, has directed the second respondent to pay commission arrears to the tune of Rs.32,571/- but the second respondent has not taken any action. Hence, the present Writ petition.

3. The learned counsel for the petitioner submitted that the petitioner service as Field Surveyor has been regularized from 03.11.1997, by Assistant Director of Survey, Kanchipuram in Proceedings No.A1/6331/06, dated 19.09.2006. Subsequently, he was trapped and arrested and in consequence convicted and was dismissed from his service on 18.11.2009. Further, he submitted that based on the petitioner representation, the first respondent has given direction to the second respondent to pay 6th pay commissioner arrears but the second respondent has not followed the same.



4. Further, the learned counsel for the petitioner relied on the various judgments of this Court in W.P.No.17067 of 2015, dated 16.06.2015, wherein, this Court has ordered for the payment of earned leave encashment benefits to a dismissed employee and W.P.No.21617 of 2015, dated 20.07.2015, this Court has ordered for payment of encashment of earned leave for a dismissed employee. Further a writ appeal has been filed before the Hon'ble Division of this Court in W.A.No.607 of 2019 against W.P.No.17067 of 2015 and the Hon'ble Division Bench of this Court has dismissed the appeal. Against the dismissal order passed in the said writ appeal a Special Leave Petition has been filed before the Hon'ble Supreme Court and the said Petition was also dismissed at the diary stage vide order dated 16.12.2019 in Diary No.42086 of 2019. Hence, he seeks for a direction to the respondents to pass appropriate orders in the light of the judgments of this Court as well as this Court.

5. The learned Additional Government Pleader appearing for the respondents submitted that the petitioner's representations dated 16.09.2020 and 14.06.2021 to pay two installments of sixth Pay Commission arrears and to pay the cash equivalent of earned leave and unearned leave on private affairs, will be considered by the respondents and the orders will be passed in accordance with law.

6. Heard the learned counsels on either side and perused the materials placed on record.

7. On a perusal of the records it is seen that the petitioner's representation dated 16.09.2020 has been considered by the first respondent and the first respondent has given direction to the second respondent to pay the pay commissions arrears but the second respondent has not taken any action. Another representation dated 14.06.2021 has not been considered by the second respondent.

8. In view of the above facts and circumstances of the case, considering the representations dated 16.09.2020 and 14.06.2021 made by the petitioner before the respondents is still pending and considering the judgments of this Court as well as the Hon'ble Supreme Court, this Court directs only the second respondent to consider the petitioner's representation 14.06.2021 to pay three installments of sixth Pay Commission arrears and to pay the cash equivalent of 225 days of earned leave and 180 days of unearned leave on private affairs since as per the petitioner's representation dated 16.09.2020, based on the first respondent's direction and pass appropriate orders in accordance with law as early as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order.



9. With the above direction, this Writ Petition stands disposed of in the light of the decision of the Hon'ble Division Bench of this Court in W.A.No.697 of 2019. No costs.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Dua

To

1. The Assistant Director of Survey,
Collectorate,
Thiruvallur.
2. The Tahsildar,
Pallipat,
Thiruvallur District.

+2ccs to Mr.D.Sivaraam, Advocate, S.R.No.8739
+1cc to the Government Pleader, S.R.No.9054

W.P.NO.24514 OF 2021

PMK (CO)
PBS/09/03/2022