BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.13244 of 2014
and
M.P(MD)No.1 of 2014

K.Loganathan ... Petitioner

Vs.

1. The Director,
   Tamil Nadu Sugar Corporation Limited,
   No.690, Anna Salai,
   Periyar EVR Buildings, 2nd Floor,
   Chennai-600 035.

2. The Managing Director,
   Tamil Nadu Sugar Corporation Limited,
   No.690, Anna Salai,
   Periyar EVR Buildings, 2nd Floor,
   Chennai-600 035.

3. The Chief Executive,
   Arignar Anna Sugar Mills,
   Kurungulam-613 303,
   Thanjavur Taluk & District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the second respondent in his proceedings in Ref.No.2555/13/E1, dated, 07.01.2014 and quash the same as arbitrary and illegal consequently directing the respondents to disburse the monetary benefits for earned leave credited in the petitioner's account within a period of stipulated time fixed by this Court.

For Petitioner : Mr.K.Baalasundharam

For Respondents : M/s.Farjana Ghoushia
Special Government Pleader
for R1 amd R2
Mr.K.Jayaraman
for R3

ORDER

This writ petition has been filed to quash the impugned order, dated, 07.01.2014 with the consequential prayer to direct the respondents to disburse the monetary benefits for earned leave credited in the petitioner's account.

2. The brief facts of the case are that the petitioner is a B.Sc. (Agriculture) graduate passed in the year 1987. He was appointed as Cane officer in M.R.K Co-operative Sugar Mills on 02.08.1988 and he served in the mill from 02.08.1998 to 10.01.1994. Thereafter, he was transferred to Arignar Anna Sugar Mills, Kurungalam, Thanjavur District on 08.10.1993 and the petitioner has joined at the office of the third respondent on 11.01.1994. The petitioner resigned his post and relieved from the services on 06.06.2011. The contention of the petitioner is that the petitioner is having credit for 240 days earned leave and the same is not paid to the petitioner. Hence, the petitioner submitted his representation to the respondents, dated, 04.10.2013. However, the second respondent vide order, dated, 07.01.2014 informed that the petitioner is not eligible for encashment of earned leave, since he had resigned from the post. Aggrieved over the same, this writ petition has been filed.

3. The third respondent has filed a counter stating that the petitioner is not entitled to encashment of earned leave, since he had resigned from the post. Moreover, the petitioner has served in M.R.K Co-operative Sugar Mills. Thereafter, he was transferred to Arignar Anna Sugar mills. Taking both the service into consideration, the petitioner is claiming earned leave for 240 days. However, the petitioner has not impleaded the M.R.K Co-Operative Sugar Mills as a party. Therefore, this writ petition is liable to be dismissed for non-joinder of necessary parties. The respondents also submitted that the petitioner is not entitled too, since the petitioner has resigned from service. Clause No.41 of the Tamil Nadu Sugar Corporation Limited Service Rules of the Officers and Employees of the Public Sector Sugar Mills in Tamil Nadu, which was approved by the Industries Department (MIC-2)

dated, 02.12.2009, Sub Clause (3) states that the earned leave at the credit of the officer / employee on the date of resignation can be counted against the notice period but cannot be encashed. Relied on the said Rule, the third respondent submitted that the petitioner is not entitled to encashment for earned leave.

4. Heard the learned counsel appearing for the petitioner as well as the respondents and perused the records.

5. On perusing the records, the rule specifically states that the petitioner cannot encash the earned leave since the petitioner has submitted resignation and the said period can be adjusted to the notice period. However, the Learned Counsel for the petitioner submitted that the circular stating that the petitioner is not entitled to earned leave on resignation, is withdrawn by a subsequent circular and as on date, the present position is that the petitioner is entitled to the earned leave even after resignation. The Learned Counsel for the petitioner relied on a judgment rendered in W.P. No. 5691 of 2015, vide order dated 04.01.2022, it has been held that the employee is entitled to encash the earned leave since the circulars prohibiting the granting of earned leave is withdrawn.

6. The petitioner also relied on the subsequent amendment and published in the Tamil Nadu Government Gazette, dated, 26.10.2011, wherein, in the amendment, it has been stated that Cane Development Officer comes under category B and the rules and regulations stipulated in TNCS Act and Rules are applicable to Grade A and B officers. The service conditions stipulated in Special By-law and Standing Orders will be applicable to Grade C and D officers. Therefore this Court is of the considered opinion that the petitioner had served as Cane Development Officer, which comes under Grade B category, then the TNCS Act and Rules are applicable.

7. The plea of non-joinder is rejected by this Court, since the petitioner is transferred from M.R.K Co-operative Sugar Mills to Arignar Anna Sugar Mills, all the service records of leave credit was transferred to the subsequent employer. Therefore, it is not necessary to implead M.R.K Co-operative sugar factory as a party.

8. Accordingly, this Writ Petition is allowed and the respondents are directed to consider the case of the petitioner in the light of the order passed in W.P. No. 5691 of 2015, vide order dated 04.01.2022 and in the light of the amendment in the provisions published in the Tamil Nadu Government Gazette dated

26.10.2011 and the said exercise shall be completed within a period of four weeks from the date of receipt of the copy of the order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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To

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3. The Chief Executive,
   Arignar Anna Sugar Mills,
   Kurungulam-613 303,
   Thanjavur Taluk & District.

+1 CC to M/s.K.JAYARAMAN, Advocate
(SR-19517[F] dated 19/04/2022)

+1 CC to M/s.SPL.GOVERNMENT PLEADER
(SR-20111[F] dated 21/04/2022)

W.P.(MD).No.13244 of 2014
and
M.P(MD)No.1 of 2014
20.04.2022

SP/10/06/2022/5P/6C