



WEB COPY



W.P.No.17327 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.17237 of 2013

1.Asir Benjamin Arulraj (Died)
President, Chennai Metropolitan
Development Authority Pensioners'
Association, Flat No,A7, First Floor
12/13, Gengu Reddy Road, Egmore
Chennai – 600 008.

2.C.R.Srinivasan,
President, Chennai Metropolitan
Development Authority Pensioners'
Association, Flat No,A7, First Floor
12/13, Gengu Reddy Road, Egmore
Chennai – 600 008.

(2nd Petitioner substituted in place of deceased
Sole Petitioner vide order dated 10.04.2023
made in W.M.P.No.28484 of 2022 in W.P.No
17327/2013 by JNBJ)

.... Petitioner

-Vs-

1.The Secretary to Government
Finance (BPE) Department
Secretariat, Fort St.George
Chennai – 600 009.

2.The Secretary to Government
Housing and Urban Development
Department, Secretariat, Fort St.George
Chennai – 600 009.



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3. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore,
Chennai – 600 008.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in respect of the Impugned Order passed by the 3rd respondent vide Letter No.E1/19173/2011 dated 30.08.2012 and quash the same and consequently directing the respondents to extend the scheme of granting monetary benefits that arises out of the encashment of the unearned leave on private affairs to the members of the petitioners Association who attained superannuation from 01.04.2003 to 31.01.2007 and to pay the monetary benefits.

For Petitioners : Mr.P.Ramanathan

For Respondents : Mr.K.Tippu Sulthan,
Government Advocate – for RR 1 and 2

Ms.Shiva Sankari for
Mr.R.Arun Kumar – for R3

ORDER

By the impugned order in the writ petition, the request for extension of benefit for those employees who were in the services of the CMDA between 01.04.2003 to 31.01.2007 for encashment of Unearned Leave on Private Affairs was not considered.



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2. Mr.Ramanathan, learned counsel for the petitioner would invite my attention to the order dated 28.01.2008 in Page 8, whereunder the Government had directed as follows:

" The scheme of encashment of unearned leave on private affairs ordered in G.O.Ms.No.488, Finance (Pension) Department dated 12.08.1996 for Government Servants may also be extended to the employees of all Statutory Boards and State Public Sector Undertakings who are getting Government scales of pay, but not to the employees who are governed by periodic wage settlement under Industrial Disputes Act, subject to the condition that the concerned Board / State Public Sector Undertakings should not seek financial assistance from the Government for this purpose."

3. He would submit that on the basis of this letter that the Government had extended the benefit of Unearned Leave on Private Affairs to Statutory Boards like the CMDA and it had not been given to the petitioner and therefore it is discriminatory.



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4. Heard Ms.Shivasankari for Mr.R.Arun Kumar, learned Standing Counsel appearing for the respondent CMDA.

5. I am unable to agree with the contention of the learned counsel for the petitioner for the simple reason, in the very next paragraph, the Government had said, the instructions will come into force only from the date of the issue of the order which is 28.01.2008. It is not disputed that the CMDA is a local authority / Statutory Board within the meaning of Town and Country Planning Act, 1975. The burden of paying Unearned Leave on Private Affairs had been extended to such institutions without any financial commitment from the Government on and from 28.01.2008 alone. For the period prior to it, no such benefit had been extended. This is an unfortunate case where the petitioner falls within the period starting from 01.04.2003 and ending with 31.01.2007. The number of employees are 64 and when the Scheme is not extended to them, they are not entitled to make a claim on CMDA to pay the encashment of Unearned Leave on Private Affairs.

6. No other point having been urged, I have to dismiss the writ petition.

No costs.



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7. However, on the request of the learned counsel for the petitioner, I grant liberty to the petitioner to approach the Government and seek for extension of the benefit of encashment of Unearned Leave on Private Affairs to the 64 employees who were employed by CMDA between 01.04.2003 to 31.12.2007. It is open to them to pursue the said representation. This Court cannot grant a positive mandamus to the petitioner as sought for in the present case.

15.06.2023

Index : Yes/No
Neutral Citation : Yes/No
KST
To

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