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W.P.No.25447 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25447 of 2012

1. A.Sithan
 2. S.Suseendar
 3. S.Surendar
 4. Subathra
 5. S.Parameshwari
- (P2 to P5 substituted as per
order dated 23.08.2023
in W.M.P.No.24695 of 2022
in W.P.No.25447 of 2012)

... Petitioners

-Vs-

1. The Secretary to Government,
Forest & Environment,
Fort St.George,
Chennai 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidepet,
Chennai – 600 015.
3. The District Forest Officer,
Coimbatore Division,
Coimbatore.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, direction directing the respondents herein to pay 12% compound interest on the belated payment of arrears of salary of Rs.87,573/- from 30.09.2001 to 03.04.2009 and further direct the respondents to pay the arrears of salary for 270 days including Medical Leave 75 days, compulsory wait period of 60 days and surrender of Earned Leave of 135 days, together with interest at the rate of 12% per annum, within a time frame as deem fit and proper by this Hon'ble Court.

For Petitioner : Mrs.V.Srimathi
For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed for direction directing the respondents herein to pay 12% compound interest on the belated payment of arrears of salary of Rs.87,573/- from 30.09.2001 to 03.04.2009 and further direct the respondents to pay the arrears of salary for 270 days including Medical Leave 75 days, compulsory wait period of 60 days and surrender of Earned Leave of 135 days, together with interest at the rate of 12% per annum, within a time frame as deem fit and proper by this Hon'ble Court.

2. Heard the learned counsel for the petitioners and the learned Special



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Government Pleader for the respondents.

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3. The first petitioner died and his legal heirs are substituted as P2 to P5.

4. The first petitioner had joined the Government service as Forester on 18.02.1971. Thereafter, he was promoted as Ranger on 10.02.1992. He had attained the age of superannuation and retired from service on 30.09.2001. While he was in service, he was kept in compulsory wait from 05.01.2001-28.02.2001 and 31.03.2001 to 04.04.2001 totally for a period of 60 days. Thereafter, he was transferred and posted to Coimbatore Division. However, the period of compulsory wait was not regularized by the respondents. Further, he had availed Medical Leave from 01.03.2001 to 30.03.2001 and 05.04.2001 to 19.05.2001. He had applied for Medical Leave along with all the relevant documents. However, the said period was also not regularized, while settling the terminal benefits. Further, at the time of his retirement, the first petitioner had 238 days of Earned Leave to his credit. The first petitioner was paid only a sum of Rs.82,573/- for the Earned Leave for 103 days and leave with salary. However, the respondents failed to pay the leave salary for the remaining period of 135 days. Further, the terminal benefits of the first petitioner was paid after a period of 8 years from the date of his retirement. Therefore, claiming



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that he is entitled for interest for the belated payment of arrears of salary, the present writ petition has been filed.

5. A perusal of the counter filed by the third respondent revealed that on the date of retirement of the first petitioner, there was 238 days of Earned Leave and 90 full days of Unearned Leave on private affairs at his credit. The compulsory wait period of 60 days cannot be considered for salary for the reason that the first petitioner was transferred from the post of Single Lock Officer, Salem Division by an order dated 08.12.2000 and he was relieved on 04.01.2001. He was posted to Forest Station Range of Coimbatore Division and he joined duty on 22.05.2001. There is no proof to show that he was kept in compulsory wait from 05.01.2001 to 28.02.2001 and 31.03.2001 to 04.04.2001. Insofar as the Medical Leave period of 75 days is concerned, the waiting period for posting by the Forest Range Officer from 01.03.2001 to 30.03.2001 and 05.04.2001 to 19.05.2001 were ordered to be treated as Earned Leave for which he is eligible and two days from 20.05.2001 to 21.05.2001 were treated as joining time. Therefore, it cannot be treated as Medical Leave.

6. Admittedly, the first petitioner was kept in compulsory wait for a period from 05.01.2001 to 28.02.2001 and 31.03.2001 to 04.04.2001 due to



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administrative reasons. The first petitioner was not posted anywhere. The

reasons stated for not paying any salary for the compulsory wait period is that,

a Government Servant seeking for posting, during the waiting period should

personally report to the office of the competent authority for issuing posting

orders and put his signature daily for his attendance. There is absolutely no

records to show that the first petitioner never reported for duty, and only

because of the administrative reasons, he was not posted anywhere. Therefore,

he is entitled for salary for the compulsory wait period of 60 days. Further, the

first petitioner had 238 days of Earned Leave to his credit. There is absolutely

no reason to deny the Earned Leave salary for the period of 135 days without

any reasons. Though the respondents deducted 90 days out of 238 days on

private affairs, there is no explanation for the remaining period of 45 days. The

respondents also failed to explain what is the private affair of the first

petitioner. Therefore, the first petitioner is also entitled for salary for Earned

Leave for remaining 135 days. Insofar as the Medical Leave of 75 days is

concerned, the first petitioner applied for Medical Leave from 01.03.2001 to

30.03.2001 and 05.04.2001 to 19.05.2001 with all medical records and the

same was also accepted by the respondents. Therefore, he is entitled for salary

also for the Medical Leave period.



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7. In view of the above, the respondents are directed to pay interest at the rate of 12% on the belated payment of arrears of salary at Rs.87,573/- from 30.09.2001 to 03.04.2009 to the substituted petitioners. The respondents are also directed to pay the arrears of salary for 270 days including Medical Leave of 75 days, compulsory wait period of 60 days and surrender of Earned Leave of 135 days, together with interest at the rate of 12% per annum to the substituted petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition stands allowed. There shall be no order as to costs.

23.08.2023
(2/2)

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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To

1. The Secretary to Government,
Forest & Environment,
Fort St.George,
Chennai 600 009.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidepet,
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G.K.ILANTHIRAIYAN, J

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