



WP.No.12914 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.12914 of 2020

A.Natarajan

...

Petitioner

/vs/

The Managing Director,
Sipcot Office, 19 A,
Rukmani Lakshmipathy Salai,
Egmore, Chennai-600 008. ...

Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of CERTIORARIFIED MANDAMUS, after calling for the records relating to clause (ii) and (iii) of the Letter No.E3/Misc/37/2014 dated 28.02.2020 of the respondent, Quash the same and consequently direct the respondent to pay leave salary for the non employment period from 24.02.1983 and 07.11.2006 and to allot one plot to me under the Mazdoor Housing Scheme.

For Petitioner : Mr.S.T.Varadarajalu

For Respondent : Mr.S.Haja Nazirudeen,
Additional Advocate General-I



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ORDER

This Writ Petition has been filed seeking to quash the impugned order dated 28.02.2020 passed by the respondent and to direct the respondent to pay leave salary for the non employment period from 24.02.1983 and 07.11.2006 and to allot one plot to the petitioner under the Mazdoor Housing Scheme.

2. Heard, Mr. S.T.Varadarajalu, learned counsel for the petitioner and Mr.S.Haja Nazirudeen, learned Additional Advocate General-I for the respondent and perused the materials available on record.

3. The petitioner was working as a Gardener in the respondent's management and he got terminated on 24.02.1983. Subsequently, the petitioner raised an Industrial Dispute in I.D.No.562/93 before the Labour Court, Vellore and got an Award dated 09.06.2000. Though the said award was given for reinstatement, the petitioner was not given with backwages and other service benefits. So the petitioner has challenged the above award by way of filing a Writ Petition in W.P.No.13974 of 2001 and the same was allowed on 09.04.2004. By virtue of the said order, the petitioner was given with back wages, continuity of service and all other benefits along with the relief of reinstatement which has been already granted by the Labour Court, Vellore. However, the petitioner got reinstatement only on 07.11.2006. Now, the grievance is that for the period



between 24.02.1983 to 07.11.2006, the petitioner was not given with the benefit of encashment of Earned Leave.

4. In the impugned order of the respondent, it is stated that the petitioner is not entitled to the encashment of Earned Leave for the period for which he was not actually in duty. The petitioner did not have any Earned Leave in his credit during the relevant point of time. Hence, he is found to be not eligible for getting the said benefit. With regard to the allotment of house plot, the request of the petitioner was simply rejected without any reasons. According to the interpretation of the respondent, the Earned Leave is credited in the account of an employee for having worked for a particular period of time. Since the petitioner was not on duty during the relevant point of time, he did not have any Earned Leave to his credit and hence, he is not allowed to encash the same.

5. But in the order of the Court dated 19.04.2004, the petitioner was given with the following relief:

“15.....and in the said dispute, non-employment of the first respondent as it has been held not Justified, the declaration made that from 5.9.1984 the was Labour, Vellore in the order dated 18.3.2001 in claim petition by the Inspector of No.5101 of 2001 would only confirm that the first respondent had also established his claim for regularisation of his services by virtue of statutory protection granted under provisions of the the Tamil Nadu Industrial Establishments (Conferment of Permanent



Status to workmen) Act, 1981. In such circumstances, I do not find any justifiable ground to interfere with the said order merely on the ground that the said relief came to be claimed by the first respondent in the year 2001. In any event, dehors the said order of the Inspector of Labour, Vellore, the employment of the first respondent by virtue of the award dated 9.6.2000 in I.D.No.562 of 1993 having been confirmed the first respondent should be granted the relief of reinstatement with all back wages, continuity of service and other attendant, benefits.”

6. The following words employed in the orders is very relevant for the purpose this petition, 'though the Court have been confirmed the order of the learned Labour Court Judge, Vellore, had granted the petitioner to the additional benefits of back wages along with continuity and other attendant benefits'. So far as the encashment leave and getting Earned Leave credit is also benefit attached to the continuity of service or in other words, if an employee is ordered to be reinstated with continuity of service, the period during which he was not employed due to the industrial dispute should also be included as continuity of service for other benefits.

7. The order does not only state that the petitioner is entitled to get the continuity of service but also with other attendant benefits. When continuity of service ensures no break in service, it has to be presumed that the petitioner was on duty between the period from 24.02.1983 to 07.11.2006 or to put it otherwise



the said period should also be treated as 'duty period'. In that case, the Earned Leave benefit cannot be denied to the petitioner and the petitioner is entitled to get Earned Leave credit for every completion of certain amount of duty days and the same should be credited in his leave account.

8. The failure on the part of the respondent in not construing the order of the Court in its true letter and spirit and consequential failure of crediting the Earned Leave accordingly in the account of the petitioner has resulted in the impugned order. Since the petitioner is entitled to Earned Leave credit which is attendant benefit along with his continuity of service and the same shall not be denied to the petitioner. Since the impugned order has stated that the Earned Leave has been computed only between the period from 13.11.2006 to 31.10.2014, he was not allowed to get the benefit of encashment of Earned Leave.

9. As stated already the respondent failed to credit the due Earned Leave in the account of the petitioner by properly construing the order of the Court. In fact, the respondent did not challenge the order passed in favour of the petitioner in WP.No.13974 of 2001 and hence, the said order has attained finality, now the respondent cannot go back and claim that the petitioner is not entitled to the encashment of Earned Leave. Hence, the impugned order with regard to the said



denial is liable to be set aside.

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10. So far as the allotment of housing plot under SIPCOT policy is concerned, it is also admitted by the learned Additional Advocate General-I for the respondent that there are three more vacant plots available. Nine plots are said to have been allotted to Mazhoors since the scheme itself is titled as 'Mazhoor Housing Scheme'. However, the respondent has claimed that too many applications have been received for the remaining three plots from the Mazhoors and hence, the process of allotment of plot has been suspended for the time being. However, it is claimed by the learned counsel for the petitioner that the allotment of plots should be on the seniority basis and it is not fair on the part of the respondent to reject him one.

11. Mr.S.Haja Nazirudeen, learned Additional Advocate General-I for the respondent attracted the attention of this Court to the Circular dated 13.03.2000 issued with regard to the allotment of plots wherein it is stated that if number of applications are more than the available number of plots then the allotment will be made by 'drawal of lot'. However in the impugned order, the respondent has not stated any reason as to why the application of the petitioner for seeking allotment of plot was denied. Since the respondent claimed that the scheme has got well regulated Rules; it is up to the respondent to reconsider the application



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of the petitioner and pass any orders by stating reasons. Since the impugned order which rejects the allotment of plot is very cryptic and without any reason and the same is liable to be set aside.

12. In the result, this Writ Petition is **allowed**. The impugned order passed in Letter No.E3/Misc/37/2014 dated 28.02.2020 of the respondent is quashed. The petitioner is given with liberty to reapply for the allotment of plot under the Mazhoo Housing scheme and on receipt of the same, the respondent shall pass orders by considering the Rules governing the allotment of plot for Mazhoors within a period of four weeks from the date of receipt of copy of this order. No costs.

01.12.2023

Index : Yes
Internet : Yes/No
jrs



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To
The Managing Director,
Sipcot Office, 19 A,
Rukmani Lakshmipathy Salai,
Egmore, Chennai-600 008.



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R.N.MANJULA, J.
jrs

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