



W.P(MD)No.1164 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.1164 of 2019

D. Usharani.

...Petitioner

Vs.

The Director,
The Gandhigram Institute of Rural Health
and Family welfare Trust,
Soundaram Nagar,
Ambathurai,
Gandhigram Post – 624 302,
Dindigul District.

....Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the respondent I.e., the Director of the Gandhigram Institute of Rural Health and Family Welfare Trust, Gandhigram, Dindigul District to take immediate action to disburse the Encashment of Leave Salary to the petitioner within a specified time frame that may be fixed by this Court.



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For Petitioner : Mr.Ram Sundar Vijayaraj

For Respondent : Mr.V.Karthikeyan
for Mr.M.Vijaya Shankar

ORDER

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and perused the record.

2. The learned counsel for the petitioner submits that the petitioner was allowed to retire on attaining the age of superannuation on 31.03.2017 while she was serving as the Superintendent in the respondent Trust.

3. The grievance of the petitioner is that encashment of leave salary has not been settled on the ground that criminal proceedings and departmental proceedings are pending. In fact, the criminal case ended in acquittal by judgment dated 26.10.2018 by the learned Judicial Magistrate, Dindigul. The departmental



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proceedings are still pending. After attaining superannuation, the petitioner received all other benefits except encashment of leave salary.

4. The learned counsel for the petitioner contends that it is a settled law that encashment of leave salary is property of an employee and it cannot be denied by the employer. In the light of the settled preposition of law, the learned counsel submits that the petitioner is entitled for payment of encashment of leave salary. The petitioner made a representation on 08.12.2018 requesting to settle the same. As there was no action from the respondent, the present Writ Petition has been filed.

5. The learned counsel for the respondent basing on the counter affidavit contends that against the order of acquittal of the Judicial Magistrate, Dindigul, the respondent filed a Criminal Revision Petition and it is pending. He further contends that till the



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disposal of the Criminal Revision Petition, the petitioner is not entitled to seek Earned Leave encashment. It is also the contention of the respondent that for the past 10 years, on account of severe financial crunch, the Board of Trustees of the respondent institute at its Board meeting resolved to keep in abeyance the payment of Earned Leave encashment to its employees. Therefore, for the past 3 years, all employees who retired have not been sanctioned Earned Leave encashment. It is also contended that a policy decision has been taken by the governing body of the respondent trust to keep in abeyance the Earned Leave to its employees. As such, the petitioner is not entitled to seek Earned Leave encashment and sought to dismiss the Writ Petition.

6. Having heard the submissions of the respective counsels and on careful examination of the materials available on record, the relationship of the petitioner with the respondent trust as its employee and the date of the superannuation of the petitioner are not



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in dispute. It is contended by the learned counsel for the petitioner that all other benefits are settled by the respondent after retirement of the petitioner except encashment of leave salary.

7. At this juncture, the learned counsel for the petitioner submits that he has placed an additional typed set of papers containing Minutes of 62nd meeting of board of trustees held on 10.02.2016 at Chennai and proceedings dated 30.06.2016 of the respondent Trust.

8. A perusal of the same, it appears that the petitioner is entitled for Rs.4,86,528/- towards encashment of Earned Leave and Rs.1,82,448/- towards encashment of unearned leave. It is also stated in the budget estimate from April 2016 to March 2017 as per the Ministry's order the said amount has to be met from institute fund only.



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9. In view of the above, it appears that there is no substance in the contention of the respondent that due to non availability of finance assistance from the Government of India, they have not settled the claim of the petitioner for encashment of leave salary.

10. The learned counsel for the petitioner has drawn attention of this Court to the order dated 05.01.2023 passed in W.P(MD) No.5099 of 2020, wherein an identical issue has been dealt by this Court. On perusal of the said order, it appears that the respondent took the same stand in the said Writ Petition also stating that there is no financial assistance from the Central Government and refused to pay the amounts claimed therein to the petitioner. Considering the audit report dated 26.07.2022 this Court held that the respondent refused to pay the legitimate amount to the petitioner therein, which is not sustainable. Accordingly, this Court directed the first respondent therein to disburse the eligible amount to the



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petitioner within the period of 12 weeks from the date of receipt of copy of the said order.

11. In my considered view, the opinion expressed by this Court in the said order and the finding are squarely applicable to the facts and circumstances of the present case.

12. Accordingly, this Writ Petition is allowed directing the respondent to disburse encashment of leave salary, for which the petitioner is legitimately entitled, within a period of four weeks from today.

13. No costs.

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Index : Yes / No

NCC : Yes / No

CM

Note: Issue order copy on .09.2023.



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To,
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and Family welfare Trust,
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BATTU DEVANAND, J.

CM

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