



W.P(MD)No.15131 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15131 of 2020

and

W.M.P(MD)No.12736 of 2020

V.Muthu Irulandi

... Petitioner

Vs

1.The State represented by
The Additional Chief Secretary /
Chairman-cum-Managing Director,
Tamil Nadu Small Industries Corporation Limited,
Guindy,
Chennai – 600 032.

2.The General Manager,
Tamil Nadu Small Industries Corporation Limited,
Guindy,
Chennai – 600 032.

3.Kalavathi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order passed by the third respondent herein in proceedings Rc.No.208/C/2018 dated 31.12.2018, quash the same and consequently to direct the respondents herein



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to settle all the retirement benefits to the petitioner with interest at the rate of 18 percent per annum from the date of retirement till the date of payment.

For Petitioner : Mr.D.Sivaraman

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.S.Karunakaran for R.2

No Appearance for R.3

ORDER

Heard the learned counsel on either side.

2.The petitioner joined the respondent corporation in the year 1981. He was promoted as Foreman Grade I on 08.12.2007. He reached the age of superannuation on 31.12.2018. The impugned charge memo was then issued informing the petitioner that the charges are being framed against him for some acts of commission and omission. We are now in 2023 and it is asserted by the learned counsel appearing for the petitioner that till date no charge memo was issued to the petitioner. This assertion is not controverted by the respondents. The counter affidavit filed by the respondents is silent on this.

3.It is stated that the petitioner was visited with the punishment of stoppage of increment for two years with cumulative effect in the year 2016 and



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that the petitioner filed W.P.No.25715 of 2017 and interim order was granted in favour of the petitioner on 03.10.2017. The said writ petition is still pending. It is stated by the petitioner's counsel that notwithstanding the interim order, the punishment has been given effect to.

4.The only question that arises for consideration is whether the earned leave salary payable to the petitioner can be withheld. The issue is no longer *res integra*. My attention is drawn to the decision of the Hon'ble Division Bench made in W.A.No.1285 of 2019 dated 10.04.2019 and W.A(MD)No.105 of 2019 dated 31.07.2019. It has been categorically held by the Hon'ble Division Bench that in the absence of any statutory provision, encashment of earned leave at the time of reaching superannuation cannot be withheld. This position would obtain even if the delinquent is dismissed from service. Respectfully applying the aforesaid ratio, the respondents 1 and 2 are directed to pay the leave salary payable to the petitioner forthwith and without any delay. Since the leave salary should have been paid within two months after the petitioner reached the age of superannuation, the respondents 1 and 2 are directed to pay the same together with interest computed with 6% per annum from the date of the petitioner's entitlement till date of payment.



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5.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The Additional Chief Secretary /
Chairman-cum-Managing Director,
Tamil Nadu Small Industries Corporation Limited,
Guindy,
Chennai – 600 032.

2.The General Manager,
Tamil Nadu Small Industries Corporation Limited,
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G.R.SWAMINATHAN, J.

MGA

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