



W.P. No.20463 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P. No.20463 of 2015

Dr.M.Thangaraj

... Petitioner

Vs

The Director,
Madras Institute of Development Studies,
79, Second Main Road,
Adyar, Chennai 600 020.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for records relating impugned order dated 08.06.2015 on the file of the respondent and quash the same and consequently direct the respondent to pay earned leave and half pay on unearned leave on private affairs to the petitioner within the time frame fixed by this Court.

For Petitioner	: M/S.S.Arokia Maniraj
For Respondent	: Mr.N.L.Rajah, Senior counsel

ORDER

The writ petition has been filed challenging the impugned order dated 08.06.2015 and consequently for a direction to the respondent to pay earned leave and half-pay on unearned leave on private affairs to the petitioner.



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2. The petitioner herein had worked as an Assistant Professor in the respondent Institute from 20.04.1989 to 30.04.1999. The petitioner was promoted to the post of Associate Professor on 11.01.2004. Subsequently, the petitioner secured employment in Dr.Ambedkhar Centre for Economic Studies, University of Madras as Head of the Department and got relief from the respondent Institute while the lien was continued till 11.03.2006. The petitioner's request for resignation was accepted by the respondent Institute with effect from 12.03.2006. Thereafter in the year 2015, the petitioner, by submitting a letter dated 29.04.2015, made a claim for the payment of amount due towards earned leave and half-pay leave. The said claim of the petitioner was negated by the respondent Institute by passing the impugned order dated 08.06.2015 mainly on two grounds. Firstly on the ground that the petitioner had left the respondent Institute on 11.03.2006 and after a long lapse of time, the present claim was made, though all amounts due to the petitioner were paid as early as in the year 2006. Secondly on the ground that as per the Rules applicable to the respondent Institute, no such amount towards earned leave and half-pay leave are payable to the petitioner. It is aggrieved by the said proceeding dated 08.06.2015, the petitioner now approached this Court by filing the present writ petition.



3. The respondent filed the counter affidavit resisting the claim made by the petitioner and also raised serious objections on maintainability of the writ petition on the ground that the respondent Institute is an autonomous private Institute and does not fall within the ambit of “State” or any other Authority under Article 12 of Constitution of India. It is also further stated that in terms of the Rules that govern the payment of earned leave and half-pay leave, employees of the respondent Institute are entitled to such benefits only on retirement of service and not on resignation.

4. The learned counsel for the petitioner placed reliance upon the Rules of Business of the Academic Council as approved by the Governing Council of the respondent Institute in its meeting held on 07.03.2001 and notified on 29.03.2001. Clause (i) of Rule 9 of the said Rules deals with the earned leave and clause (v) deals with the Half-pay Leave. The provisions of clauses (i) and (v) of Rule (9) are as follows:

“9.....

(i) *Earned Leave*

Earned leave admissible shall be one-eleventh of the period on duty. Earned leave can be accumulated only up to a maximum of 365 days. The maximum earned leave which may be granted to a faculty member shall be 365 days. Earned leave cannot be surrendered for encashment except at retirement up to a maximum of 120 days.



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.....
(v) *Half-pay Leave*

Every member of the faculty is eligible for half pay leave computed at 20 days for each completed year of service.”

From a reading of the above clauses, it is evident that the surrender of earned leave for encashment is permissible only at the time of retirement from service. There are no other rules that enable an employee to encash earned leave or half-pay leave on resignation.

5. Admittedly, the petitioner herein left the respondent Institute by submitting his resignation, which came in effect from 12.03.2006 and subsequently, joined service of University of Madras and thereafter, retired from service in or around the year 2015. It was only after his retirement from the University of Madras, the petitioner made a claim for encashment of earned leave and half-pay leave. Absolutely, no reason was assigned about the delay of decade in making above claim. Further, there is no Rule or provision which entitles the petitioner to encash earned leave and half-pay leave after resignation. In the absence of any Rule providing such right to the petitioner, no Mandamus can be issued to make payments towards encashment of earned leave and half-pay leave.



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6. Coming to the question of maintainability of the writ petition under Article 226 of the Constitution of India, this Court is of the considered view that the same need not be considered in this writ petition, in the light of the conclusion arrived at by this Court. Accordingly, the issue of maintainability of the writ petition left open. In the light of the above, this Court does not find any merit in the claim made by the petitioner for payment of amount towards encashment of earned leave and half-pay leave and also does not find any infirmity or illegality in the impugned order dated 08.06.2015 passed by the respondent. Yet another ground for not entertaining this writ petition is delay and latches in making the claim.

7. In view of the above, the writ petition stands dismissed. No costs.

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Speaking (or) Non Speaking Order

Index : Yes/ No

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To

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MUMMINENI SUDHEER KUMAR, J.

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