



WEB COPY



W.P.No.29743 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29743 of 2024 and
W.M.P.No.32410 of 2024

The Management,
Park Town Co-operative Wholesale Stores Ltd.,
Rep by its Joint Registrar/ Executive Officer,
No.263, M.T.H.Road, Villivakkam,
Chennai 600 049.

... Petitioner

Vs.

1.The Authority,
Under the Payment of Wages Act
Joint Commissioner of Labour -1,
Chennai 6.

2.Mr.B.Dhanasekaran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorari, to call for the records of the order passed by
the first respondent in Sa.Pa.Sa.No.04/2023 dated 31.01.2024.

For Petitioner : Mr.M.Ravibharathi

For Respondents : Mrs.M.Jayanthi, AGP for R1



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ORDER

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This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records of the order passed by the first respondent in Sa.Pa.Sa.No.04/2023 dated 31.01.2024.

2. Heard Mr.M.Ravibharathi, learned counsel for the petitioner and Mrs.M.Jayanthi, learned Additional Government Pleader for the 1st respondent and perused the materials available on record.

3. The second respondent who is said to have worked as a Salesman in the petitioner's Society, has made a claim before the first respondent stating that he is entitled to the encashment of earned leave benefits. The first respondent has passed an order stating that the second respondent is entitled to get the earned leave benefit for 240 days. Now, the contention of the petitioner is that the second respondent is not a Government servant for whose condition of service, there is an entitlement for encashment of earned leave.



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4. As per the by-law 33 of the petitioner Society under Chapter VII (Privileges, Concessions and Monetary Benefits of Employees), the surrender and encashment of earned leave shall be subject to the conditions that such surrender leave shall be made without actually going on leave for a period not exceeding fifteen days with an interval of not less than twelve months from the date on which earned leave was surrendered previously. For the sake of clarity, the above said by-law is extracted hereunder:

"33. Encashment of Leave:

(1) No leave other than the earned leave shall be surrendered and encashed. The surrender and encashment of earned leave shall be subject to the conditions that such surrender leave shall be made without actually going on leave for a period not exceeding fifteen days with an interval of not less than twelve months from the date on which earned leave was surrendered previously and for a period not exceeding thirty days with an interval of not less than twenty four months from the date on which earned leave was surrendered previously.



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(2) If an employee entitled to earned leave is retired or discharged from service or resigns from service before he has been allowed such leave, or if, having applied for and been refused such leave the appointing authority shall grant him leave which is to his credit or pay him the amount of salary equal to such leave his credit."

5. When the by-law of the petitioner Society itself has got the provisional entitlement of encashment of earned leave for the second respondent, the petitioner cannot make any argument by distinguishing the similar service benefit enjoyed by the Government servant. Since the order has been passed only in accordance with the by-laws of the Society, I do not find any grounds for interfere with the impugned order.

6. In view of the above stated reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To
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R.N.MANJULA, J.

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