



WEB COPY



W.P.No.35592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.35592 of 2023

D.Geetha

...Petitioner

-Vs -

1. Government of Tamil Nadu,
Rep. by Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Director of Medical Education,
Chennai – 600 010.
3. The Superintendent,
Govt. Hospital of Thoracic medicine,
Tambaram Sanatorium,
Chennai – 600 047.
4. The Dean,
Govt. Medical College & ESI Hospital,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents No.1 to 4 to fully release and pay the encashment of earned leave salary to the petitioner as applicable to the retired government employees as per rules within the time stipulated by this Court.



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For Petitioner : Mr.J.Sushil Rajkumar

For Respondents : Mr.Tippu Sulthan
Government Advocate.

ORDER

This writ petition has been filed for direction to direct the respondents to pay the encashment of earned leave salary as applicable to the petitioner.

2. The petitioner had joined in the medical service department as Staff Nurse on 13.03.1981 and she was posted in Government Hospital, Chennai on 01.05.1988. While she was in service, she was issued with charge memo on 03.07.1995 and thereafter she was imposed with punishment of removal from service. Aggrieved by the order of removal, the petitioner filed an original petition in O.A.No.3328 of 2002 before the Tamilnadu Administrative Tribunal. The Tribunal, by an order dated 22.04.2004, revoked the order of dismissal and modified the punishment as stoppage of increment for three years with cumulative effect. Though the petitioner was reinstated into service, the period of her absence was not regularized.



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3. Thereafter the petitioner was served with another charge memo dated 16.06.2017, for unauthorized absence and she was put under suspension. Though the petitioner attained her age of superannuation on 31.07.2017, she was not allowed to retire and all her retirement benefits were withheld. Thereafter, the second respondent by the communication dated 30.10.2023 revoked the suspension order and permitted her to retire from service on 31.07.2017. However, the respondents did not release the encashment of earned leave salary as applicable to the retired government employees.

4. Heard the learned counsel on either side and perused the materials available on records.

5. On perusal of records revealed that the request made by the petitioner was already rejected by the communication dated 07.11.2023, on the ground that the petitioner is facing disciplinary proceedings and only after completion of the disciplinary proceedings, the request made by the petitioner can be considered. Therefore, the prayer sought for in this writ petition cannot be considered and the writ petition itself devoid



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of merits and liable to be dismissed. However, after completion of disciplinary proceeding, the petitioner is at liberty to submit fresh representation before the respondents and the same may be considered in accordance with law.

6. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

01.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



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