



W.P.(MD).No.14804 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.14804 of 2021

and

W.M.P.(MD)No.11703 and 11704 of 2021

N.Gunasekaran

...Petitioner

Vs.

1.The Chief Educational Officer,
School Education Department,
Thanjavur District.

2.The District Educational Officer,
School Education Department,
Orthanadu, Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records relating to the proceedings of the impugned order of the 1st respondent passed on 08.07.2021 vide order in Na.Ka.No.1667/A1/2016 and quash the same as illegal and further directing the 1st respondent to provide encashment of earned leave, commutation, leave surrender salary and other health insurance claims.

For Petitioner : M/s.Chamundi Bose

For Respondents : Mr.A.K.Manickam,
Standing Counsel



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ORDER

The prayer of the writ petition is as follows:

This writ petition has been filed to quash the impugned order of the 1st respondent dated 08.07.2021 vide order in Na.Ka.No.1667/A1/2016 and consequently direct the 1st respondent to provide encashment of earned leave, commutation, leave surrender salary and other health insurance claims.

2. The facts and circumstances which led to the filing of this writ petition are as follows:

The petitioner is a retired Head Master from Poovathur Government High School, Orthhanadu, Thanjavur District. While he was in the last lap of his service, he was visited with 17 (b) charges by the 1st respondent. He was relieved from service, by an order dated 28.09.2018. Subsequently, he was allowed to retire by an order dated 28.09.2018 on attaining the age of superannuation on 30.09.2018 without prejudice to the pending disciplinary proceeding. Challenging the same, the writ petitioner had filed a writ petition in W.P.(MD)No.21089 of 2019 and the same was dismissed by this Court on 09.10.2018. As against the order passed by this Court in the aforesaid writ petition, he preferred a writ appeal in W.A.(MD)No12 of 2019



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and the same is pending. An interim order was passed in the said writ appeal by an order dated 17.01.2019, permitting the authority to proceed with the enquiry and pass orders without prior permission of the Court. While so, the respondents failed to release the petitioner's provident fund, gratuity, health insurance claims and other benefits to which the petitioner is entitled to. Hence, he made a representation to the 1st respondent seeking to disburse the benefits, namely, encashment of earned leave, commutation, leave surrender salary and health insurance claims. The same was rejected by the impugned order dated 08.07.2021 by the respondent. Challenging the same, the present writ petition came to be filed.

3. The learned counsel for the petitioner M/s.Chamundi Bose vehemently submitted that, having allowed to retire, the disbursement of the terminal benefits is automatic and hence, the respondents ought to have duly sanctioned all his terminal benefits to which he is entitled to. However, having limited the relief only seeking encashment of earned leave, commutation, leave surrender and health insurance claims, relying upon G.O.Ms.NO.488, Finance Education Department, dated 12.08.1996, the learned counsel for the petitioner submitted that, the petitioner is entitled for the same and pressed for allowing the writ petition.



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4. Per contra, relying upon the counter affidavit filed by the 1st respondent, the learned Additional Government Pleader, Mr.M.Sarangan submitted that, while this writ petition was filed, the writ appeal filed by the petitioner in W.A.(MD)No.12 of 2019 was pending. However, the same has been dismissed by the Hon'ble Division Bench of this Court on 11.06.2024. That apart, the disciplinary proceeding which has been initiated as against the writ petitioner has also been completed and the report is awaited. Hence, the petitioner shall wait till the final outcome of the disciplinary proceeding and pressed for dismissal of the writ petition.

5. Heard the learned counsels on either sides and carefully perused the materials available on record.

6. The learned counsel for the petitioner strongly relied upon the mandates of G.O.Ms.No.488 of Finance Pension Department dated 12.08.1996 and the relevant portion of the same is extracted as follows:

“2. Accordingly Government direct that at the time of retirement, encashment of leave upto a maximum of 300 days shall be allowed. For this the Earned Leave accumulated upto 240 days shall be allowed for encashment and unearned leave on Private affairs upto 120 days which



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shall be converted into 60 days of full pay shall be allowed for encashment.

4. These orders shall also apply to the following categories of employees:-

- 1. a) those retiring on medical invalidation.*
- 2. b) those retrenched from Government service.*
- 3. c) those permitted to retire from service without prejudice to the disciplinary proceedings pending against them.*
- 4. d) in the case of death of an employee while in service.*
- 5. e) to those going on voluntary retirement, and*
- 6. f) those sent on compulsory retirement.”*

7. A careful perusal of the said G.O., it could be understood that all those employees who were permitted to retire from service without prejudice to the disciplinary proceeding against them are entitled for encashment of earned leave and unearned leave on private affairs. In view of the same, this Court hereby quash the impugned order dated 08.07.2021 passed by the 1st respondent and consequently 1st respondent is directed to sanction encashment of earned leave, unearned leave salary to the petitioner in terms of G.O.Ms.No.488 dated 12.08.1996 within a period of four (4) weeks from the date of receipt of a copy of this order.



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8. With the above observations, this writ petition stands allowed.
There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Chief Educational Officer,
School Education Department,
Thanjavur District.
- 2.The District Educational Officer,
School Education Department,
Orthanadu, Thanjavur District.



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L.VICTORIA GOWRI, J.

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