



WEB COPY

W.A.No. 304 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

**W.A.No. 304 of 2025**  
**and**  
**C.M.P.No. 2386 of 2025**

The Management,  
Park Town Co-operative Wholesale Stores Ltd.,  
Rep. by its Joint Registrar / Administrator,  
No.263, MTH Road,  
Villivakkam, Chennai - 600049  
Now at: Plot No.5102, F2,  
H Block, 15th Main Road,  
Anna Nagar, Chennai - 600 040.

... Appellant

Vs.

1.The Authority,  
Under Payment of Wages Act/  
Joint Commissioner of Labour - I,  
Chennai - 600006.

2.M.Chinnappan

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 07.08.2024 made in W.P.No.27540 of 2021.

For Appellant : Mr.S.Parthasarathy

For Respondent : No Appearance



## **J U D G M E N T**

(Judgment of the Court was made by R.SUBRAMANIAN, J.)  
Challenge is to the order of the writ Court, dismissing the writ petition

filed by the Employer / Appellant, challenge in which was to the order of the Joint Commissionr of Labour - I, Chennai dated 08.10.2021 allowing leave encashment benefits to the workman.

2. The claim of the workman for leave encashment was primarily countered by the appellant on the ground that Rule 42 does not permit encashment of the earned leave. Rule 42 reads as follows:-

### ***"42. ENCASEMENT OF LEAVE:***

*(1) No leave other than privilege leave shall be surrendered and encashed. The surrender and encasement of privilege 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 which earned leave on 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 privilege leave is retired or discharged from service or resigns from service before he/she has been allowed such leave, or if, having applied for and been refused such leave the appointing authority shall grant him/her leave which is to his/her credit or pay him/her the amount of salary equal to such leave to his/her credit."*

A reading of the above Rule shows that no other leave, except privilege leave can be surrendered and encashed.

3. Though the learned counsel for the appellant would attempt to make a difference between privilege leave and earned leave, the Writ Court has found that both are the same with a different nomenclature. It is also seen from the order of the writ Court that the appellant had allowed encashment of privilege leave earlier. The learned counsel for the appellant, would urge that since the appellant Society is running under loss, leave encashment cannot be allowed, this argument is against service jurisprudence. If the Employee is entitled to certain benefits, the same cannot be taken away on the ground that the Employer is running under loss.



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4. This Writ Appeal therefore, fails and it is accordingly, **dismissed**.

No costs. Consequently, connected miscellaneous petition is closed. Time granted for payment is extended by eight weeks from today.

(R.S.M., J.) (G.A.M., J.)  
20.02.2025

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Index: No  
Speaking order  
Neutral Citation : No

To:

1.The Authority,  
Under Payment of Wages Act/  
Joint Commissioner of Labour - I,  
Chennai - 600006.

**R.SUBRAMANIAN, J.**

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**and**  
**G. ARUL MURUGAN, J.**

KKN

**W.A.No. 304 of 2025**  
**and**  
**C.M.P.No.2386 of 2025**

**20.02.2025**