



W.P.No.15383 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.07.2025**

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THE HONOURABLE MR.JUSTICE **P.DHANABAL**

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and WMP.No.14534 of 2022

The Management of Kanchipuram,
Central Co-operative Bank Limited,
represented by its Managing Director,
No.15-G, Sheikpet North Street,
Kancheepuram

.... Petitioner

Vs

V.Nithyanandam

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records culminating in the order dated 11.3.2022 made in C.P.No.231/2011 on the file of the First Additional Labour Court (FAC), Chennai and quash the same.

For Petitioner : Mrs.G.Thilakavathi
Senior Counsel
for Mr.R.Gophinath

For Respondent :Mr.S.Ravi



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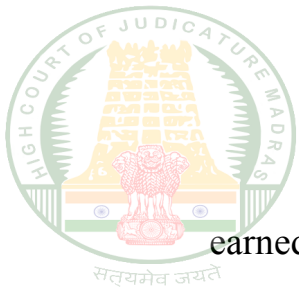
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ORDER

This Writ Petition has been filed to quash the order passed in C.P.No.231 of 2011 dated 11.03.2022 on the file of the I Additional Labour Court (FAC), Chennai, wherein the respondent herein has filed petition to compute the amount and the same was allowed. Aggrieved by the said order, the present writ petition has been filed by the Management.

2. The learned counsel appearing for the petitioner would submit that the respondent, an Assistant at the petitioner bank, retired on 30.06.2010. During his service period, he was suspended due to misconduct. The charges were framed, and a disciplinary enquiry was conducted, but the charges were eventually dropped on 14.12.2009. Consequently, he was reinstated with effect from 05.12.2007 and the period of suspension from 07.09.2007 to 04.12.2007 was regularised by granting him the benefit to encash eligible leave for the said period.

2.1. The respondent's service register shows that his accumulated



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earned leave for the entire service period, including the suspension period, was computed at 227 days, against an outer limit of 240 days.

After regularising his 89 days suspension period from 07.09.2007 to 04.12.2007, the respondent was granted the benefit of eligible leave encashment, including surrender leave, totaling 227 days, for which he received Rs.47, 445/-.

2.2. Subsequently, the respondent filed a computation petition in C.P.No.231 of 2011, alleging that while he had encashed 227 days of earned leave, the management failed to grant him the yearly surrender leave, to which an employee is entitled to encash at a rate of 15 days per year. As he was suspended in September 2007, he was unable to encash leave for the years 2008, 2009 and 2010. Therefore, only after the orders regularizing his suspension, the management granted him the surrender leave benefit of 15 days for each of the years 2008-2010, totaling 45 days.

2.3. The petitioner stated that the petition under section 33 C(2) of the Industrial Dispute Act is not maintainable as there is no existing



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right. However, the Labour Court without considering the aforesaid facts, allowed the petition, granting surrender leave for 45 days by including the aforesaid 89 days as earned leave. Therefore, the order passed by the Labour Court is liable to be quashed.

3. The learned counsel for the respondent would submit that the petitioner faced charges, which were subsequently dropped. Based on those charges, he was suspended for 89 days, from 06.09.2007 to 04.12.2007. Although the charges were dropped, the aforesaid period of suspension was not regularized, and surrender leave was not sanctioned. The documents filed by the petitioner indicate that 89 days of privilege leave, credited to the petitioner as of 07.09.2007 were debited for the aforesaid suspension period. Therefore, the petitioner violated the rules by treating the suspension period as leave, even after the charges against him were dropped. Therefore, treating the suspension period as leave is illegal.

3.1. Therefore, petitioner put to a financial loss to the tune of Rs.60,379/- and thereby filed a petition before the Labour Court for



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computation. As far as the maintainability is concerned, there is no dispute that the petitioner is entitled to earned leave, and a pre-existing right exists; thus, the petition is maintainable. The Labour Court after carefully considering evidence adduced on both sides, correctly came to a conclusion that the management was not authorized to treat the 89 days of suspension period as earned leave and deduct it while calculating leave salary. The Management wrongly calculated the leave salary in the service register. Therefore, the Labour Court allowed the petition and computed the leave amount for 58 days with 9% interest. The aforesaid order is reasoned order and the present writ petition is liable to be dismissed.

4. This Court heard both sides and perused the records.

5. In this case, there is no dispute that respondent was suspended for 89 days from 07.09.2007 to 4.12.2007. After the charges were dropped, the management without authorization from a competent authority, deducted these 89 days of suspension from his earned leave during the regularization process. Once the charges were dropped, the



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suspension period should be treated as a working period. Therefore, the

respondent is entitled to all the benefits for the period of suspension.

However, the management illegally treated this period as leave and deducted it from earned leave. Therefore, the Labour Court correctly held that this deduction of 89 days from earned leave was unlawful. However the Labour Court awarded the respondent surrender leave for the consecutive years of 2008-2010, totaling 45 days. As per the special bylaws relating to the service conditions of the employees at Kanjipuram Central Cooperative bank, kanjipuram, every employee is entitled to earned leave at a rate of one day for every 11 days of duty. The accumulation and surrender of earned leave shall be as per the Government norms.

6. According to Bylaw No.XII (1), bank employees are also permitted to surrender privilege leave not exceeding 15 days once a year without actually taking leave, provided the interval between two such surrenders is not less than 12 months, and they receive salary and allowances for the surrendered leave. If the interval between surrenders is 24 months or more, employees can surrender leave up to 30 days of



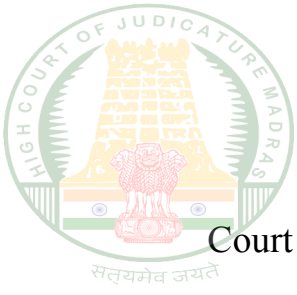
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leave without actually taking leave and receive leave salary and allowances for the surrendered leave.

7. Therefore, if the interval between surrender is 24 months or more, employees can surrender a maximum of 30 days. In the case on hand, the Labour Court granted 45 days of surrender leave, which exceeds the permissible limit of 30 days. Thus, the number of days for leave surrender needs to be modified accordingly.

8. As far as the ceiling limit of 240 days is concerned, the management admitted that the respondent was entitled to 227 days. Therefore, the petitioner is entitled to up to the limit of 240 days. Consequently, the respondent is entitled to surrender leave salary for 30 days and earned leave for 13 days from his leave salary, totaling 43 days (30+13).

9. In view of the aforesaid discussions, this Court is of the opinion that this writ petition is to be partly allowed. Accordingly, this writ petition is partly allowed by modifying the order passed by the Labour



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Court that the respondent is entitled to 43 days leave salary with interest as awarded by the Labour Court. In other aspects, the order of the Labour Court is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
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To

The First Additional Labour Court (FAC), Chennai



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P.DHANABAL,J.

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