IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.08.2025
Pronounced on	26.08.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.P.No.37395 of 2024
and
W.M.P.No.40398 of 2024

S.Sivasankaran ... Petitioner

Vs.

1. The Chief General Manager,
   Heavy Vehicles Factory,
   HVF Road,
   Avadi, Chennai – 600054.

2. The Joint Work Manager (SG)/NT(ESST),
   Heavy Vehicles Factory,
   HVF Road,
   Avadi, Chennai – 600054. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in impugned order in Proceedings No.00093/ESTT/DG/LEAVE/ENC/SS/2022 dated 23.09.2022, Proceedings No.00093/ESTT/DG/LEAVE/ENC/SS/2022 dated 15.11.2022 and Proceedings No. 00093/ESTT/DG/LEAVE/ENC/SS/

2023 dated 14.03.2024 issued by the first respondent and quash the same, and consequentially direct the second respondent to settle the entire dues to the petitioner by calculating the earned leave entitlement as 300 days in the present service along with the interest at the rate of 12% from the date of superannuation i.e. 30.04.2020 till the date of realization of the same.

For Petitioner	: Mr.R.Parthiban
For Respondents	: Ms.A.Anuradha, Central Government Standing Counsel

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ORDER

The instant writ petition has been filed challenging the impugned orders dated 23.09.2022, 15.11.2022 and 14.03.2024 issued by the first respondent.

2. The learned counsel for the petitioner would submit that the petitioner served in the Indian Air Force for a period of 20 years and was discharged from service on 31.07.2001. After the said service, the petitioner was again appointed in the first respondent factory under the Ex-servicemen category on 11.10.2004. He would further submit that after having served for several years in the first respondent factory with merit, he retired on

30.04.2022 on attaining the age of superannuation.

2.1. It is the further submission of the learned counsel that according to the Central Civil Services (Leave) Rules, 1972 (hereinafter referred to as 'the CCS Rules' for short), a person who retires is eligible for cash equivalent in respect of earned leave at his credit on the date of termination of re-employment, subject to a maximum of 300 days. The sum and substance of the learned counsel for the petitioner's contention is that he ought to have been granted cash equivalence at the time of his retirement before the first respondent in respect of earned leave for 300 days, whereas the petitioner was granted only cash equivalent for 80 days, which is in contravention of Rule 39(6)(a)(iii) of the CCS Rules. Hence, prayed to quash the impugned orders.

3. The said contention was stoutly objected by the learned Standing Counsel appearing for the respondents, and would submit that according to Rule 39(6)(a)(iii) of the CCS Rules, the employee was granted leave encashment upto a maximum of 300 days, including the period for which encashment was allowed at the time of retirement in his previous service,

viz., the Indian Air Force. She would further submit that on the date of superannuation before the first respondent, the petitioner had 240 days of earned leave and 10 days of half-pay leave at his credit. However, taking into consideration the CCS Rules, the petitioner's eligibility for cash equivalence for 80 days was allowed, as the petitioner had already availed himself of 220 days of earned leave when he was serving in the Indian Air Force. Therefore, she would contend that the rejection order is well within the merits. In this connection, the learned Standing Counsel relied upon the judgment of the Hon'ble Supreme Court of India in ***State of Sikkim and Others Vs. Dr. Mool Raj Kotwal,*** reported in ***2025 SCC OnLine SC 888.***

4. I have given my anxious consideration to either side submissions.

5. The short point to be considered in the present writ petition is, Whether the petitioner is entitled to 300 days of earned leave in his second service, viz., before the first respondent, after being discharged from the Indian Air Force. In this connection, it is appropriate to extract Rule 39(6)(a)(iii) of the CCS Rules, which reads as follows:-

"39. Leave/Cash payment in lieu of leave beyond

> ***the date of retirement, compulsory retirement or quitting of service.***
>
> ....
>
> *(iii) A Government servant, who is re-employed after retirement may, on termination of his re-employment, be granted, suo motu, by an authority competent to grant leave, cash equivalent in respect of both earned leave and half pay leave at his credit on the date of termination of re-employment subject to a maximum of 300 days including the period for which encashment was allowed at the time of retirement and the cash equivalent payable shall be the same as in sub-rule (2) of Rule 39."*

While reading the above Rule, the word 're-employed' used prior to the word 'after retirement' which is the catch word and denotes a significant difference.

6. Here, the petitioner was re-employed in the first respondent's concern after his retirement from his Indian Air Force service. In such an event, according to this Rule, the Government servant is entitled to cash equivalent in the re-employment post, viz., in the first respondent's concern, is subject to the maximum of 300 days, including the period for which encashment was allowed at the time of his retirement in his first service. Therefore, a harmonious reading of the above rule would clearly stipulate

that the total entitlement of cash equivalent is 300 days, which includes his service by way of re-employment as well as his service in the Indian Air Force. As per Rule 39(6)(a)(iii) of the CCS Rules, it is clearly mandated that the 300 days should include the period for which encashment was allowed at the time of his first retirement.

7. In the case in hand, it is not in dispute that the petitioner has already availed himself of 220 days in his Indian Air Force service. Therefore, the first respondent, out of a total of 300 days, deducted 220 days and allowed 80 days. In which, this Court absolutely finds no infirmity.

8. At this juncture, this Court would like to rely upon the judgment of the Hon'ble Supreme Court of India in ***Dr. Mool Raj Kotwal's case*** (cited supra), wherein the Hon'ble Supreme Court dealt the interpretation of the leave encashment provisions. In this regard, it is appropriate to extract paragraphs 27 and 28, which read as follows:-

> *"27. Interpreting leave encashment provisions goes beyond financial compensation and connects to broader legal principles of dignity and welfare during service. However, such interpretations must carefully balance the*

interests of both employees and the financial stability of the organization, especially when public exchequer is involved. Courts must tread carefully to prevent employees from claiming leave encashment multiple times for the same accrual, which could lead to unjust enrichment and may go against the public interest of largesse.

28. Therefore, while leave encashment ensures that extraordinary work ethic of an employee is rewarded, it must be applied in a way that upholds both employee rights and institutional sustainability. Naturally, courts must interpret leave encashment rules and statutes in a manner that prevents undue financial burden on employers while ensuring that employees receive what they are lawfully entitled to.

According to the above ratio, the Hon'ble Supreme Court of India has clearly held that while interpreting the leave encashment provisions, a balance should be struck between the interests of the employee and the financial stability of the organization.

9. In the case in hand, the Rule, on its harmonious reading, would give a categorical meaning that the total cash equivalence for earned leave is for 300 days, and that 300 days includes whatever earned leave he has already

been allowed at the time of his first retirement. But the learned counsel for the petitioner, by relying on Rule 34 of the CCS Rules, would submit that when a person is re-employed after retirement, then the said Rules shall apply as if he had entered Government service for the first time on the date of his re-employment. This Court absolutely cannot have any grievance with Rule 34.

10. But the fact remains that according to Rule 39, when it specifies that the cash equivalence should be paid for 300 days, which includes the earned leave that has already been availed of by the Government employee during his Indian Air Force service, and when the above Rule is interpreted in accordance with the judgment of ***Dr. Mool Raj Kotwal's case*** (cited supra), Rule 34 does not make any difference in the reasoning given by the first respondent in the impugned orders. Therefore, this Court absolutely does not find any merit in the present writ petition.

11. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.08.2025
1/2

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

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C.KUMARAPPAN, J.

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Pre-Delivery Order in
W.P.No.37395 of 2024

26.08.2025
1/2