BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2025

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.(MD).Nos.493 to 498 of 2020
and
C.M.P.(MD).Nos.3545 to 3550 of 2020

W.A.(MD).No.493 of 2020

The Managing Director,
State Express Transport Corporation Limited,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 600 002. ... Appellant/Respondent

Vs.

A.Krishnamani ... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to allow the Writ Appeal and set aside the order in W.P.(MD).No.8454 of 2017 dated 28.04.2017 on the file of this Court.

For Appellant : Mr.J.Senthil Kumariah
For Respondent : Mr.A.Rahul
(In all cases)

COMMON JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM, J.)

These Writ Appeals have been instituted by the Transport Corporation against the orders passed in W.P.(MD).Nos.8454, 8455, 8541, 8570, 8577 and 10989 of 2017 dated 28.04.2017 and 14.06.2017 respectively.

2. The Writ Petitions were allowed by directing the appellant/Corporation to permit the respondents/writ petitioners to encash the unearned leave on private affairs. All the respondents/writ petitioners are all managerial/supervisory cadre officers and staffs, who worked in the appellant/Transport Corporation and as of now, they have attained the age of superannuation. In the year 2017, they approached this Court and filed Writ Petitions praying for a direction, directing the appellant/Transport Corporation to extend the benefit of surrender leave and encashment of unearned leave on private affairs for the period of 90 days to the respondents/writ petitioners and to pay monetary benefits to the respondents/writ petitioners with interest at the rate of 18% per annum payable, from the date of retirement of the respondents/writ petitioners to till the date of payment of the said monetary benefit, based on the scheme of unearned leave on private affairs.

3. Their arguments were based upon G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 and the Government Letter, dated 28.01.2008 and a Resolution was passed by the appellant/Transport Corporation in its meeting convened on 15.02.2012, wherein, the Board recommended for implementation of the Government Order/letter regarding encashment of unearned leave on private affairs at the time of retirement.

4. The appellant/Transport Corporation resisted the said prayer by contending that the Transport Corporation has a separate set of Leave Rules and G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 cannot be extended to the Government of Tamil Nadu undertaking, such as the appellant/Transport Corporation. Further, it was contended that though there was a Clarificatory Letter, dated 28.01.2008 extending the benefit of G.O.Ms.No.488 to the State Public Sector undertaking, subsequently, the Government have clarified by letter, dated 15.02.2012 that “only those Statutory Boards/State Public Sector Undertakings whose service Regulations/Service Rules provide for extension of this scheme may continue to sanction the benefit of encashment of Unearned Leave on Private Affairs to their employees at the time of their retirement from the date of the orders issued

in Government letter, dated 28.01.2008 without seeking financial assistance from the Government".

5. Therefore, the appellant/Transport Corporation contended that the respondents/writ petitioners are attempting to achieve the relief indirectly what they cannot directly achieve. Though the said contention was raised in W.P.No. 7423 of 2014, the same came to be allowed. The matter was taken on appeal and the Division Bench of this Court in ***W.A.No.1352 of 2015***, (***the Government of Tamil Nadu Vs. P.Gurusami***), dismissed the Writ Appeal, which concerned the claim made by the Managerial/Supervisory staffs of Tamil Nadu Tea Plantation Corporation Limited. By referring paragraph No.17 of the Judgment, this Court allowed the Writ Petitions in W.P.(MD).No.2323 of 2016 etc., batch dated 02.12.2016. By placing reliance upon the same, this Court allowed the present Writ Petitions as prayed for.

6. We have heard the learned counsels appearing for the parties and perused the materials placed on record.

7. It is an admitted fact that G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 issued by the State Government did not extend

the benefit of encashment of unearned leave on private affairs at the time of retirement to the State Government undertakings or statutory bodies, etc and such benefit was extended to the Government servants and the maximum period was stipulated as 90 days. Thus, by virtue of G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996, the respondents/writ petitioners cannot make a claim for the encashment of the unearned leave on private affairs.

8. The problem arose on account of a letter, dated 28.01.2008. Admittedly, the Government order cannot be superseded by a Government letter, which has been issued by the Secretary of the Government. At the best, it is advisory and not mandatory, in which, a clarification was issued that the scheme of encashment of unearned leave on private affairs ordered in G.O.Ms.No.488, Finance (Pension) Department, dated 12.08.1996 may also be extended to the employees of statutory bodies and the State Government undertakings. It appears that a thorough exercise was not undertaken by the Finance Department before issuing the Clarificatory Letter, dated 28.01.2008. Subsequently, it appears that the matter was brought to the knowledge of the Finance Department, the Secretary to the Government of Tamil Nadu and appropriate clarification was issued by the Government on 15.02.2012,

whereby, making it clear that if a State Public sector undertaking has such a provision in their Regulations and Service Rules, they may continue to do so. In the said Government letter, in paragraph No.3, the Government specifically took note of the fact that few State Public Sector Undertakings have extended the benefit of encashment of Unearned Leave on Private Affairs to their employees, even though there was no provision in their service rules for extension of such benefit and seek later orders for ratification from the Government. That apart, in paragraph No.4(ii), the Government had specifically clarified that the scheme should not be extended to the employees of State Public Sector Undertakings, whose Service Rules did not contain the provision for encashment of Unearned Leave on Private Affairs.

9. Thus the mistake committed by the Government in issuing a letter, dated 28.01.2008, was appropriately clarified by the Finance Department. In the interregnum, i.e., in the year 2010, the Board of the appellant/Transport Corporation placed the Government Order, dated 28.01.2008 for consideration and the decision taken in the meeting held on 15.06.2010 states "recorded for implementation". The fact remains that though such resolution was passed, the same remained unimplemented and well before that could take place, the Government had clarified that such scheme will not apply to State Public Sector

Undertakings whether there is no Service Rule or Regulation to that effect. Therefore, reliance placed on resolution by the learned counsel for the respondents/writ petitioners is self-serving, it is more so, because the respondents/writ petitioners, who have come forward before this Court claiming the benefits are all persons in the Managerial/Supervisory cadre.

10. Insofar as the decision in the case of *Tamil Nadu Tea Plantation Corporation Limited* is concerned, we find that the case is factually different and taking note of the conduct of the respondents in the said case, the Division Bench had issued the direction. In any event, we find that the correctness of the said decision has been challenged before the Honourable Supreme Court and stay of the Judgment has been granted in S.L.P.No.23510-23513/2016, dated 14.12.2016.

11. As noticed above, there is a separate Service Rule for the employees of the appellant/Transport Corporation. Annexure-II of the common Service Rules deals with Unearned Leave and on perusal of the said Rules, we find that there is no such Leave Rule called as unearned leave on private affairs. Thus, unless and until, such a leave is contemplated under the Service Rules, the question of encashment does not arise. It is to be noted that all the

respondents/writ petitioners have all served in the appellant/Transport Corporation and were bound by the Service Rules framed by the Corporation. Therefore, at this distant point of time, after they attained the age of superannuation, the question of claiming such a benefit does not arise.

12. In the result, these Writ Appeals are allowed and the orders passed in W.P.(MD).Nos.8454, 8455, 8541, 8570, 8577 and 10989 of 2017 dated 28.04.2017 and 14.06.2017 are set aside. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (A.D.M.C.,J.)
23.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

S.M.SUBRAMANIAM,J.
and
DR.A.D.MARIA CLETE,J.

Lm

W.A.(MD).Nos.493 to 498 of 2020

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