

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.5016 OF 2024 (S-R)

BETWEEN:

SRI. H CHANNAIAH
S/O R. HANUMANTHAPPA
AGED ABOUT 70 YEARS
OCC: RTD WATERMAN
O/O Y N HOSAKOTTE GRAMA PANCHAYATH
PAVAGADA TALUK
TUMKUR DISTRICT-572 141

....PETITIONER

(BY SRI. BABU RAO .M, ADVOCATE)

AND:

- 1 . THE CHIEF EXECUTIVE OFFICER
ZILLA PANCHAYATH
TUMKUR DISTRICT-572 101
- 2 . THE TALUK EXECUTIVE OFFICER
PAVAGADA TALUK PANCHAYATH
TUMKUR DISTRICT-572 101
- 3 . THE PANCHAYATH
DEVELOPMENT OFFICER
Y N HOSAKOTTE GRAMA
PANCHAYTH

PAVAGADA TALUK
TUMKUR DISTRICT-572 141

...RESPONDENTS

(SRI. A. NAGARAJAPPA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE RESPONDENTS TO GRANT/CLEAR ARREARS OF ENCASHMENT OF EARNED LEAVE OF 243 DAYS (PENSIONARY BENEFITS) WITH INTEREST AT THE RATE OF 8 PERCENT FROM 31.01.2013 TO TILL CLEARING THE ENCASHMENT OF EARNED LEAVE.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.04.2024, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner, who dedicatedly served as a Waterman in the office of respondent No.3 from 29.8.1979 until his superannuation on 31.1.2013, seeks redressal for non-payment of earned leave encashment by the Grama Panchayath.

2. Upon the petitioner's retirement, the Accountant General's office meticulously prepared a detailed statement encompassing the petitioner's service data and the pension payable. Subsequently, the Chief Executive Officer of Zilla Panchayath and the Taluka Executive Officer of Pavagada Taluka Panchayath issued directives emphasizing the urgency of settling the petitioner's earned leave encashment.

3. Regrettably, despite the clear directives, the Grama Panchayath released only a fraction of the

earned leave amounting to Rs.70,000/-, leaving an outstanding balance of Rs.1,32,200/-.

4. The Grama Panchayath, in its response, raised objections to the petitioner's claim, disputing his employment status. The Grama Panchayath contended that the petitioner was merely a temporary employee and raised doubts regarding the authenticity of the documents furnished by the petitioner. Specifically, they pointed to the Assistant Controller State Accounts' records, alleging that they did not corroborate the petitioner's initial appointment with the Grama Panchayath.

5. Upon an exhaustive examination of the records, documents, and submissions made by both parties, it is abundantly clear that the Grama Panchayath's contention is devoid of merit and lacks any substantive evidence to support its claims.

The petitioner's service record, which spans over several years and across different administrative units, including the Municipality, Mandal Panchayath, and finally the Grama Panchayath, unequivocally establishes his continuous employment. This fact is further corroborated by the pensionary benefits extended to the petitioner by the Grama Panchayath upon his superannuation.

6. The petitioner's prior service with other administrative bodies does not, in any manner, negate or diminish his entitlement to the earned leave encashment accrued during his tenure with the Grama Panchayath.

7. In support of the petitioner's claim, reliance is placed on the landmark judgment of the Supreme Court in ***Jagdish Prasad Saini v. State of***

Rajasthan¹. The Hon'ble Supreme Court, in its wisdom, has categorically held that leave encashment forms an integral part of an employee's salary. The Court further emphasized that authorities cannot absolve themselves of their statutory obligations towards discharging the leave encashment dues of retiring employees.

8. The matter before this Court raises significant constitutional questions regarding the entitlements to leave encashment. At the heart of this case lies the determination of whether these benefits are to be considered as mere discretionary bounties or as enforceable legal rights under the Constitution of India.

9. The petitioners, in the present case, assert that their entitlements to pension, health gratuity, and leave encashment are integral to their fundamental

¹ AIR 2022 SC 5478

rights as guaranteed by the Constitution of India. They contend that these entitlements should not be subject to arbitrary withholding or denial based on administrative instructions lacking the force of law.

10. The Supreme Court, in its landmark judgment in ***Deokinandan Prasad v. State of Bihar***², decisively settled the legal status of pension and gratuity. The Court categorically rejected the antiquated notion that these benefits are mere gratuitous payments subject to the discretionary will of the employer. Instead, the Court held that pension and gratuity are legal rights accruing to an employee upon retirement, not contingent upon the employer's discretion or designation.

11. Building upon the foundation laid in ***Deokinandan Prasad's*** case, it becomes evident that the entitlements to pension, health gratuity, and leave

² (1971) 2 SCC 330

encashment are integral to the fundamental rights enshrined in Article 19(1)(f) and Article 31(1) of the Constitution of India. These rights safeguard an individual's economic and personal liberties, ensuring that they are not deprived of their rightful entitlements without due process of law.

12. The principle of administrative instructions, while valuable for organizational efficiency, cannot supersede the constitutional protections guaranteed to citizens. Article 300-A of the Constitution mandates that the State cannot deprive an individual of their property (which includes entitlements like leave encashment) except by authority of law. Therefore, any attempt to withhold or curtail these entitlements based solely on administrative directives would be contrary to the constitutional mandate and, consequently, unconstitutional.

Conclusions:

13. In light of the foregoing analysis and the authoritative pronouncements of the Supreme Court, this Court holds that:

(i) Leave encashment cannot be viewed as discretionary bounties but as legal rights enforceable under the Constitution of India.

(ii) The entitlements to these benefits are safeguarded under the fundamental rights guaranteed by Article 19(1)(f) and Article 31(1) of the Constitution.

(iii) Administrative instructions, lacking the force of law, cannot override the constitutional protections and deprive individuals of their entitlements as mandated by Article 300-A of the Constitution.

14. In view of the foregoing analysis, legal principles, and the evidence on record, this Court proceeds to pass the following:

ORDER

(i) The writ petition is allowed.

(ii) Respondent No.3/Grama Panchayath is directed to forthwith disburse the outstanding earned leave encashment amounting to Rs.1,32,200/- with 6% interest to the petitioner from 18.10.2021 till the date of payment.

(iii) Respondent No.3/Grama Panchayath shall ensure compliance with this order within a period of three months from the date of receipt of certified copy of this order.

**Sd/-
JUDGE**

*alb/-