



W.P.No.4125 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2026

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.4125 of 2022

G.Arunagiri

... Petitioner

Vs.

1 The Regional Deputy Director (I/C) of
Survey Land and Records,
Chennai – 600 005.

2 The Assistant Director (I/C) of
Survey Land and Records,
District Survey Office,
Chennai – 600 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the second respondent in Na.Ka.A3/1648/2021 dated 25.06.2021 quash the same and consequently directing the respondents to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-Earned Leave on private affairs to the petitioner.

For Petitioner : Mr.R.Dayalan

For Respondents : Mr.V.Sivalingam
Government Advocate



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ORDER

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order issued by the second respondent in Na.Ka.A3/ 1648/2021 dated 25.06.2021 quash the same and consequently directing the respondents to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-Earned Leave on private affairs to the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner was dismissed from service on 05.08.2016. Immediately, after his dismissal, he was settled with encashment of earned leave, however, on oral instructions, the petitioner refunded the said sum of Rs.3,35,599/- into the Treasury. The learned counsel further submitted that since similarly placed persons were granted encashment of earned leave, though they were dismissed from service, this petitioner has sent representation to the respondents, which the respondents rejected vide impuged order dated 25.06.2021 as if the said amount has already been released to the petitioner. The learned counsel invited the attention of this Court to the counter



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affidavit and submitted that in the counter affidavit, the respondents have admitted that the said amount was returned to Treasury by way of Challan No.3233 on 16.10.2015. Therefore, the learned counsel submits that the impugned order is liable to be interfered with.

3.At this juncture, the learned Government Advocate by relying upon G.O.(Ms) No.100, Human Resources Management Department dated 07.09.2022 would vehemently contend that if a person is dismissed from service, he is not entitled for encashment or earned leave and leave on private affairs. Hence, prayed to dismiss the writ petition.

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

5.Now the point for consideration is that in the case in hand, the petitioner was dismissed from service in the year 2016, which factum is not in serious dispute, in such view of the circumstances, whether G.O.(Ms) No.100, Human Resources Management Department dated 07.09.2022 has got retrospective effect.



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6.In this regard, it is appropriate to refer the decision of the Hon'ble Supreme Court in the case of ***State of Jharkhand and others Vs. Jitendra Kumar Srivastava and another [Civil Appeal No.6770 of 2013 dated 14.08.2013]***, wherein, it is clearly held that encashment of earned leave is like a property. Therefore, unless there is a statutory provision or Rule, the same cannot be withheld.

7.In this regard, the learned counsel for the petitioner also relied upon the order of the learned Single Judge in ***W.P.(MD) No.13285 of 2022 dated 19.09.2022 [M.Soundararajan Vs. 1. The Additional Chief Secretary / Commissioner of Revenue Administration, Chepauk, Chennai – 600 005. and another]***, wherein, the learned Single Judge by referring to the Hon'ble Full Bench of Madras High Court in W.A.No.4018 of 2019 vide Order dated 22.11.2019 (The Chief Secretary to Government, Public (Special A) Department, Chennai V. M.Uthiraswamy), has observed as follows:

*"6. The issue on hand was considered by the Hon'ble Full Bench of Madras High Court in **W.A.No.4018 of 2019 vide Order dated 22.11.2019 (The Chief Secretary to Government, Public (Special A) Department, Chennai V. M.Uthiraswamy).***



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The Hon'ble Full Bench has held as follows:-

"16. Employees Contribution to Provident Fund and leave which has been earned by him (not encashed) are the property of the employee, they cannot be taken away, without due process of law, as enshrined, under Article 300 A of the Constitution of India. There is nothing in the Rules which has been relied by the learned Government Pleader which will enable the Government to withhold the Employee's own contribution to Provident Fund and encashment of accumulated earned leave when the Government servant has attained the age of superannuation. These amounts have to be given to the Government servant, even if the criminal proceedings culminate against the Government servant and the Government servant is terminated from service. If these amounts cannot be forfeited even on termination, there is no justification in withholding the same during the continuation of criminal proceedings after the Government servant has attained the age of superannuation."



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7. *It is true that in view of the aforesaid amendment made in G.O. (Ms)No.100 Human Resources Management (FR.II) Department dated 07.09.2022, the Government servants who are dismissed or removed from service or who have resigned from service shall not be eligible for encashment of earned leave and leave on private affairs. This amendment came into force only with effect from 07.09.2022. The petitioner's case arose much earlier. Therefore, the issue is governed by the Hon'ble Full Bench decision. The amendment made to the fundamental Rule and the Tamil Nadu Leave Rules 1933 cannot be retrospectively applied to the prejudice of the writ petitioner. In that view of the matter, the impugned order is set aside. The respondents are directed to settle the monetary benefits arising in terms of earned leave salary and leave salary on private affairs. This monetary settlement shall be made within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs."*

8. The learned Single Judge has ultimately decided that as long as there are no Rule to withheld encashment of earned leave, the



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same ought to have been paid to the employee. In the case in hand, the only defence raised by the respondents is based upon G.O.(Ms) No.100, Human Resources Management Department dated 07.09.2022. The said Government Order has got only prospective effect. In the case on hand, as on the date of the petitioner's dismissal, no Government Order or Rule existed to withheld encashment of earned leave.

9.In such circumstances, the impugned order dated 25.06.2021 is quashed. The respondents are directed to settle the amount due to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. If there is any delay in settling the amount, the petitioner is entitled to have interest at the rate of 12% per annum.

10.With the above direction, the writ petition is disposed of.

No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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C.KUMARAPPAN,J.
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To

- 1 The Regional Deputy Director (I/C) of
Survey Land and Records,
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