

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23728 of 2015

M.Govindasamy

.. Petitioner

vs

The Joint Commissioner of Police
West Zone
Ambattur Industrial Estate
SIDCO Complex
Chennai 58

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on private affairs to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.V.Subbiah
Special Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that he, while working as Head Constable at J.J.Nagar Police Station (Law and Order), was trapped and arrested by the Vigilance and Anti Corruption Wing and since he was reaching the age of superannuation, was placed under suspension on 19.9.2008, and was also not permitted to retire.

3.The grievance expressed by the petitioner, is that de hors the pendency of the criminal case, he is entitled to the disbursement of terminal benefits such as General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Unearned Leave on private affairs and in this regard, he has submitted a representation dated 27.7.2015, to the respondent and since he has not been favoured with any response, came forward to file this writ petition.

4.Mr.C.Prakasam, learned Counsel appearing for the petitioner, has drawn the attention of this Court to the order dated 2.6.2015, made in W.P.No.15457/2015, and would submit that in similar facts and circumstances, this Court has passed a positive order directing the concerned respondent to confer the petitioner therein with such benefits and similar order may be passed.

5.The Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepted notice on behalf of the respondent, also.

6.It is relevant to extract paragraph Nos.5 to 7 of the order dated 2.6.2015, made in W.P.No.15457/2015 (P.K.Panchaksharam vs. The Chairman cum Managing Director, Tamil Nadu Generation and Electricity Distribution Corporation Ltd.), as under:-

"5. At the time of hearing, the learned counsel for the petitioner would fairly submit that in the event of conviction and dismissal from service, the petitioner may not get gratuity in the facts and circumstances of the case, but he cannot be deprived of Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs as those are his properties. As far as Special Provident Fund is concerned, the learned counsel is not able to state as to whether the petitioner has contributed towards the same. According to him, if there is any contribution by the petitioner towards Special Provident Fund, the same cannot also be denied, even if he is dismissed.

6. I am in agreement with the submissions made by the learned counsel for the petitioner. As rightly contended by the learned counsel for the petitioner, payment of Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs are concerned, the department cannot withhold the same, as those are the properties of the workman.

7. In view of the same, a direction is issued to the respondents to disburse Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs. As far as Special Provident Fund is concerned, the respondents are directed to refund the same, if there is any contribution made by the petitioner. If petitioner has contributed towards other terminal benefits, the extent to the contribution made by the petitioner shall also be paid. The respondents are directed

to disburse the aforesaid amount, within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed."

7. In the light of the above facts and circumstances, this Court directs the respondent to consider and dispose of the petitioner's representation dated 27.7.2015, by taking into consideration the above said order, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

nsv

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To:

The Joint Commissioner of Police
West Zone
Ambattur Industrial Estate
SIDCO Complex
Chennai 58

+ 1 cc to Mr.C.Prakasam, Advocate SR 40227

+ 1 cc to the Govt.Pleader, SR 40440

vd(co)
prk21/8

सत्यमेव जयते

W.P.No.23728 of 2015

WEB COPY