

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25026 of 2015

and

M.P.No.1 of 2015

D.Arumugam

... Petitioner

Vs

Revenue Divisional Officer,
Kallakurichi, Villupuram District.

... Respondent

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of certiorarified mandamus to call for the records pertaining to the order passed by the respondent in his proceedings Na.Ka.No.A1/9353/2007 dated 30.06.2015 and quash the same and direct the respondents to settle the terminal benefits to the petitioner such as Death-cum-Retirement Gratuity, encashment of earned leave, commutation of pension and special provident fund.

For Petitioner ... Mr.P.Ganesan
For Respondent ... Mr.R.Vijayakumar,
Addl. Govt. Pleader

ORDER

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

2.The petitioner while working as Village Administrative Officer of Ammayagaram Village, was arrested on the basis of trap proceedings initiated under the provisions of Prevention of Corruption Act, 1988. He was placed under suspension on 18.09.2007 and he has been paid subsistence allowance. Though the petitioner has reached the age of superannuation on 31.08.2009, he was not allowed to retire and he was also retained in service vide order dated 31.08.2009. The petitioner made a representation on 07.01.2015 praying for disbursement of terminal benefits and also placed reliance upon the earlier order dated 11.02.2014 made in W.P.No.3935 of 2014 and the order dated 06.08.2014 made in W.P. No.20946 of 2014. The first respondent has rejected the request of the petitioner vide memo dated 30.06.2015 stating that the above cited orders cannot be made applicable to the petitioner for the reason that it pertained to the petitioner therein alone. Aggrieved by the same, the petitioner came forward to file this writ petition.

3.Learned counsel for the petitioner would submit that the criminal prosecution launched against the petitioner under the provisions of Prevention of Corruption Act, has culminated into a charge sheet and has been taken on file by the Special Court for Trial of Cases under the Prevention of Corruption Act/Chief Judicial Magistrate, Villupuram and it is pending trial and now, the petitioner is aged about 64 years and surviving only on subsistence allowance and therefore, de hors the pendency of the criminal proceedings, there cannot be any impediment on the part of the concerned authority to disburse his share of provident fund contribution and encashment of earned leave and prays for appropriate orders.

4.The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondent.

5.This Court, after hearing the rival submissions, is of the view that de hors the pendency of the criminal prosecution and departmental proceedings, there cannot be any impediment on the part of the respondent to disburse the provident fund contribution made by the petitioner as well as permitting him to encash the earned leave.

6.In the result, the writ petition is partly allowed and the impugned order dated 30.06.2015 is set aside and the respondent is directed to consider the claim made by the petitioner for withdrawal of his provident fund contribution as well as encashment of earned leave,* and **Special Provident Fund, and pass orders** 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. No costs. Consequently, connected miscellaneous petition is closed.

7.The Special Court for Trial of Cases under the Prevention of Corruption Act/Chief Judicial Magistrate, Villupuram is directed to give utmost priority and expedite the trial of Spl. C.C. No.1 of 2009 and pronounce the verdict as expeditiously as possible.

-s/d-

Assistant Registrar(CSII)

DATED : 01.09.2015

***Corrected as per order of this Court dated 25.09.2015 and made in WP.25026 of 2015**

Sd/-Assistant Registrar(CS II)

DATED : 05.10.2015

True Copy

Sub-Assistant Registrar

To

1.The Revenue Divisional Officer,
Kallakurichi, Villupuram District.

2.The Special Court for Trial
of Cases under the Prevention
of Corruption Act/Chief
Judicial Magistrate,
Villupuram.

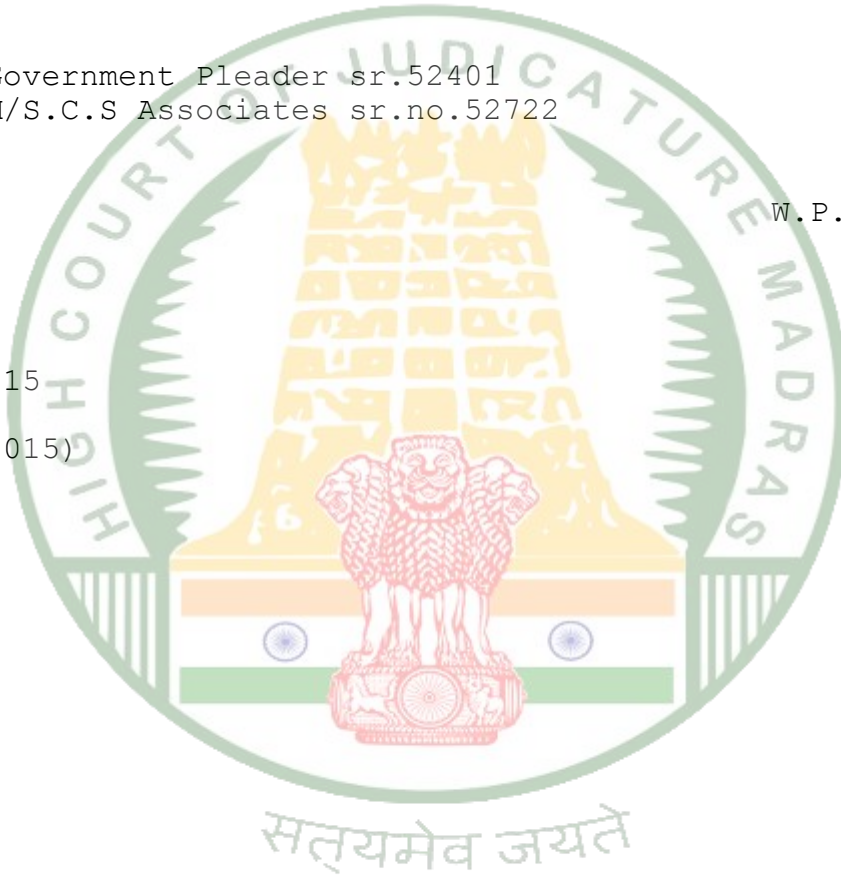
To be substituted to the
order already despatched
on 21.09.2015

+1 cc to Government Pleader sr.52401
+1 cc to M/S.C.S Associates sr.no.52722

W.P.No.25026 of 2015

vsn(co)
aa02/09/2015

CA(05.10.2015)



WEB COPY