

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.24623 of 2016

R.P.Subramanian

.. Petitioner

Vs.

1.The Chairman-cum-Managing Director
TANGEDCO
NPKRR Maaligai
TNEB Complex
144, Anna Salai
Chennai-600 002.

2.The Chief Engineer/Hydro
TANGEDCO
NPKRR Maaligai
TNEB Complex
144, Anna Salai
Chennai-600 002.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to pay the gratuity amount and leave encashment salary of the petitioner, within the time limit fixed by this Court or pass any appropriate direction as this Court may deem fit in the circumstances of the case.

For Petitioner :Mr.M.Vijayakumar

For Respondents :Mrs.R.Varalakshmi
Standing Counsel

ORDER

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to pay the gratuity amount and leave encashment salary of the petitioner within a time frame.

3. The petitioner was working as an Executive Engineer Civil NI (Non-Independent) in Kadambarai Generation Circle, TANGEDCO, Minparai, Coimbatore District, from 07.06.2012. The petitioner was incharge to look after the said circle as Additional charge. While so, he issued a Memo, to one Kannammal, Field Helper, for her unauthorised absence. According to the petitioner, after receiving the said Memo, she lodged a complaint on 18.08.2012 alleging that he had sexually harassed her. Thereafter, the petitioner was suspended from service and he was not allowed to retire on attaining the age of superannuation on 31.01.2014. The petitioner made a representation requesting to finalize the departmental proceedings as the criminal cases ended in acquittal, but, the respondents have not considered the same and it is still pending. The petitioner has made another representation, dated 04.06.2016, seeking the respondents to pay the retirement benefits such as gratuity amount and leave encashment salary. But, the same is also till date pending without consideration. Hence, the present Writ Petition has been filed seeking the relief stated supra.

4. Mr.M.Vijayakumar, the learned counsel for the petitioner would submit that the petitioner was kept under suspension and he was not allowed to retire on attaining the age of superannuation and therefore, he is entitled for the gratuity and leave encashment salary. In this regard, the petitioner has made a representation on 04.06.2016, but, the same was not considered till date and therefore, he was put to serious hardship. The learned counsel would further submit that the petitioner would be satisfied, if the respondents are directed to pay the gratuity and leave encashment salary of the petitioner, within a time frame.

5. Mrs.R.Varalakshmi, the learned Standing Counsel, who took notice on behalf of the respondents, on instructions, would submit that since, the petitioner has been retained and he was not allowed to retire on the last date of his retirement, he is entitled to gratuity and leave encashment salary as per the order passed by this Court in the similar circumstances in W.P.No.26157 of 2014, dated 25.09.2014.

6. In the order passed by this Court in W.P.No.26157 of 2014, dated 25.09.2014, in paragraph No.5, it was held as follows:-

"5. It is seen from the aforesaid two judgments rendered by this Court that even though a person was placed under suspension and was not allowed to retire, he is entitled to payment of gratuity and leave encashment salary and that was ordered. Therefore, following the same, this Writ Petition is

disposed of by directing the respondents to pay the gratuity and leave encashment salary to the petitioner within a period of eight weeks from the date of receipt of a copy of this order...."

7. Following the above order, this Court, without going into the merits of the claim made by the petitioner, directs the respondents to pay the gratuity and leave encashment salary to the petitioner, as eligible and in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

paa
To

- 1.The Chairman-cum-Managing Director
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1 cc to Mr.M.Vijayakumar, Advocate, sr.40107

rsy co
kra 29.07.2016

W.P.No.24623 of 2016

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