

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.25107 of 2016

P.M.Sivashanmugam

.. Petitioner

vs.

1.The Superintending Engineer,
Chennai Electricity
Distribution Circle West,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Anna Nagar, Chennai-40.

2.The Executive Engineer,
Operation and Maintenance,
CEDC/West, TANGEDCO,
Anna Nagar, Chennai-40.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to disburse within a time frame the General Provident Fund, Special Provident Fund and Earned Leave Encashment benefits, consequent on the removal of the petitioner from TANGEDCO service with effect from 24.01.2014 with interest on delayed payment.

For Petitioner : Mr.M.Ravi

For Respondents: Mrs.R.Varalakshmi
Standing Counsel for TANGEDCO

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus directing the respondents to disburse within a time frame the General Provident Fund, Special Provident Fund and Earned Leave Encashment benefits, consequent on the removal of the petitioner from TANGEDCO service with effect from 24.01.2014 with interest on delayed payment.

2. The petitioner was serving as Assessment Inspector in Maduravoyal South Section in Chennai Electricity Distribution Circle West and a criminal case was registered against the petitioner under Sections 405, 409, 465, 467 and 471 IPC on the basis of complaint given by Assistant Engineer,

Maduravoyal South Section of TANGEDCO and FIR in Crime No.216 of 2009 was registered against the petitioner and taken on file by the Judicial Magistrate No.II, Poonamallee and consequent upon registration of criminal case, the petitioner was placed under suspension by the second respondent, vide order dated 28.03.2009. Departmental proceedings was initiated against the petitioner by the first respondent, vide proceedings dated 10.08.2009 for alleged misappropriation of a total amount of Rs.7,78,576/- and ultimately, vide order dated 24.01.2014 passed by the first respondent, the petitioner was dismissed from service. Aggrieved by the same, the petitioner preferred an appeal dated 17.02.2014 to the Chief Engineer (Personnel), TANGEDCO, Chennai-2 against the order of removal from service and it was dismissed, vide order dated 23.12.2014. The grievance expressed by the petitioner is that consequent upon removal from service, though he was entitled to Pension and Gratuity benefits, still he is entitled to the payment of Provident Fund, Special Provident Fund and Earned Leave Encashment, since these items are his properties. The petitioner also sent a representation under Right to Information Act to the second respondent seeking about the details of Provident Fund, Special Provident Fund, Earned Leave Encashment etc., and the Public Information Officer has informed that a sum of Rs.7,78,576/- is due to be paid by the petitioner to TANGEDCO and only if the petitioner remit the said amount, his request to withdraw Provident Fund amount of Rs.2,25,813/- will be considered. The petitioner would submit that since the criminal case registered against him is pending, the question of recovery or payment of Rs.7,78,576/- allegedly due to TANGEDCO does not arise at all at this stage, as the matter is subjudice and has not reached finality and hence, the petitioner came forward with this writ petition.

3. When the matter is taken up for consideration, Mr.M.Ravi, learned counsel appearing for the petitioner has relied upon the order dated 08.06.2015 made in W.P.No.16099 of 2015 and would submit that in the said writ petition direction was given to the first respondent to settle the General Provident Fund, Special Provident Fund and Earned Leave Encashment benefit to the petitioner, since these items are properties of the petitioner and prays for similar orders.

4. Heard the submissions of Mrs.R.Varalakshmi, learned Standing Counsel appearing for the respondents/TANGEDCO and also perused the materials placed before it.

5. I am in agreement with the submission made by the learned counsel appearing for the petitioner that since the General Provident Fund, Special Provident Fund and Earned Leave Encashment are properties of the petitioner, these items could not be denied to the petitioner, even if he is ultimately dismissed from service.

6. In the result, this Writ Petition is allowed and the respondents are directed to disburse the General Provident Fund, Special Provident Fund and Earned Leave Encashment to the petitioner irrespective of removal of the petitioner from TANGEDCO, within a period of six weeks from the date of receipt of a copy of this order, in the light of the order dated 08.06.2015 made in W.P.No.16099 of 2015. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jvm

To

- 1.The Superintending Engineer,
Chennai Electricity Distribution Circle West,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Anna Nagar, Chennai-40.
- 2.The Executive Engineer,
Operation and Maintenance,
CEDC/West, TANGEDCO,
Anna Nagar, Chennai-40.

+1cc to Mr. M. Ravi, Advocate, S.R.No.55354

TRM(CO)
EU(1/11/2016)

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