

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.33562 of 2016

K.Jayaraman

... Petitioner

Vs.

The Government of Tamil Nadu,
rep. by Additional Chief Secretary to
Government,
Micro, Small and Medium Enterprises
Department,
Secretariat, Chennai-9.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent herein to forthwith disburse the General Provident Fund, the contribution of the petitioner to Special Provident Fund and the Earned Leave Encashment benefits to the petitioner and to consider the claim of the petitioner for revocation of suspension and for permission to retire from service on 31.5.2016 AN, with all consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.R.Rajeswaran,
Special Government Pleader

WEB COPY
ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondent to forthwith disburse the General Provident Fund, his contribution to Special

Provident Fund and the Earned Leave Encashment benefits and to consider his claim for revocation of suspension and for permission to retire from service on 31.5.2016 AN, with all consequential benefits.

3. It is the case of the petitioner that he entered into the service of the Tamil Nadu Secretariat on 26.11.1987. While he was due to retire from service on 31.5.2016, an order of suspension was passed on the ground that a criminal case has been registered against him. Consequently, by an order dated 31.5.2016, the respondent passed orders not permitting him to retire from service on 31.5.2016. The allegation made in the criminal complaint is utterly false and pre-motivated. It is not either mandatory or automatic that the appointing authority shall have to necessarily place an employee under suspension and not permit him to retire from service, if any criminal case is under investigation against the petitioner. Further, an employee who is not issued with proper order of suspension in accordance with law, cannot be retained in service and he shall have to be deemed to have retired from service. That apart, the respondent is bound to disburse the General Provident fund and the earned leave encashment benefits to him as it is settled law that those benefits could not be denied to him even if he was ultimately dismissed from service. In this regard, he sent a detailed representation dated 15.7.2016 to the Government for revocation of his suspension and to permit him to retire from service on 31.5.2016. Since the same has not been considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondent.

5. Though the petitioner has sought for a larger relief in this writ petition, considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to send a fresh representation along with a copy of this order to the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the same, regarding disbursement of the petitioner's General Provident Fund, his contribution to Special Provident Fund and the Earned Leave Encashment benefits and also his claim for revocation of suspension and for permission to retire from service on 31.5.2016 AN, and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner

and it is for the respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbi

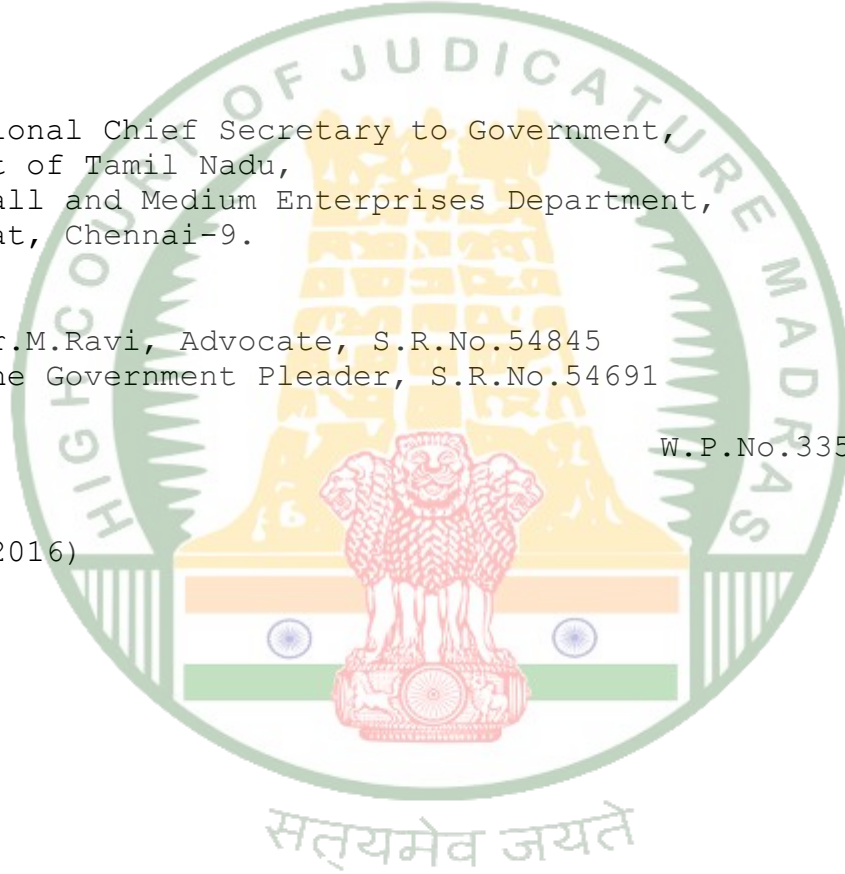
To

The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Micro, Small and Medium Enterprises Department,
Secretariat, Chennai-9.

+1cc to Mr.M.Ravi, Advocate, S.R.No.54845
+1cc to the Government Pleader, S.R.No.54691

W.P.No.33562 of 2016

NR(CO)
CA(28/09/2016)



WEB COPY