

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2017
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
W.P.No.621 of 2017

M.Nehru Jawahar

... Petitioner

Vs.

1.The District Collector,
Salem District, Salem.

2.The Revenue Divisional Officer,
Attur Taluk, Salem District.

3.The Tahsildar,
Attur Taluk, Salem District.

... Respondents

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 Special Provident Fund and Encashment of Earned Leave to the petitioner along with interest from the date of reaching the age of superannuation by considering the representation submitted by the petitioner dated 08.09.2015.

For Petitioner : Mr.G.Sankaran
For Respondents: Mr.P.Senthilvel,
Government Advocate

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2.The petitioner, while working as an Village Administrative Officer was involved in commission of offence punishable under Prevention of Corruption Act, 1988 and was placed under suspension and the case after investigation, has culminated into a charge sheet, which was taken on file by the Special Court for trial in C.C.No.12/2014 for offences under Prevention of Corruption Act cases and vide judgment dated 30.06.2015, he was convicted under Sections 7, 13 (2) read with 13 (1)(d) of the Prevention of Corruption Act, 1988 and imposed with sentence of one year R.I and two years R.I. Each and fine of Rs.5,000/- with default sentence of six months Simple Imprisonment each. Challenging the conviction and sentence, the petitioner filed CrI.A.No.440 of 2015 and the sentence of imprisonment alone was suspended, vide interim order dated 14.07.2015 in M.P.No.1 of 2015 in CrI.A.No.440 of 2015. Since the petitioner has reached the age of superannuation and was placed under suspension, he was not permitted to retire from service, vide proceedings of

the 2nd respondent. The grievance expressed by the petitioner is that despite being convicted and suspended from service, he is entitled to Special Provident Fund, Encashment of Earned Leave and Gratuity. Since, it has not been disbursed, prays for appropriate orders.

3. The learned counsel for the petitioner places reliance on the order dated 08.06.2015 made in W.P.No.16098 of 2015 [D.Sugumar Vs. The District Collector, Erode District and another].

4. Per contra, Mr.P.Senthilvel, Government Advocate, appearing for the respondents would submit that since the petitioner has been convicted and suspension of sentence of imprisonment alone was granted and further that the departmental proceedings are also under contemplation, the petitioner is not entitled to the relief.

4. This Court considered the rival submissions and also perused the typed set of documents.

5. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider and dispose of the petitioner's representation dated 08.09.2015 and permits the petitioner to submit one more representation to the respondents 2 & 3 along with a copy of this order as well as the earlier representation within a period of two weeks from the date of receipt of a copy of this order. The respondents 2 & 3, on receipt of the same, is also directed to pass orders in accordance with law, within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner.

6. The Writ Petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Salem District, Salem.

2.The Revenue Divisional Officer,
Attur Taluk, Salem District.

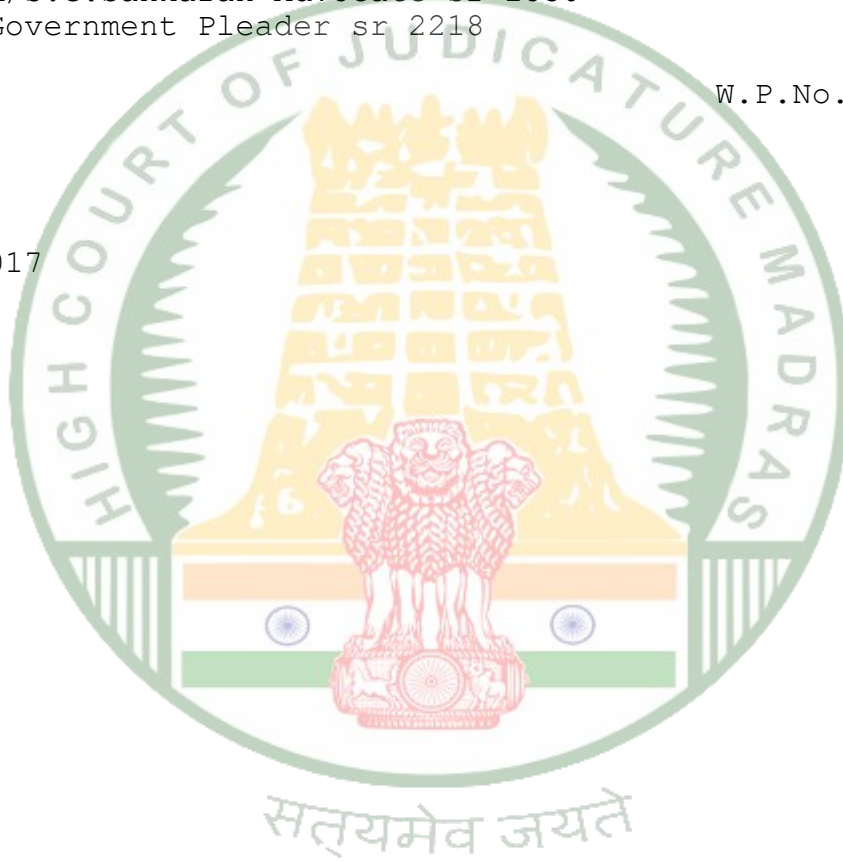
3.The Tahsildar,
Attur Taluk, Salem District.

+1 cc to M/s.G.Sankaran Advocate sr 2530

+1 cc to Government Pleader sr 2218

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