

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.31175 of 2017

S.Vijayakumar

.. Petitioner

-vs-

The Principal Secretary/Transport Commissioner
Chepauk
Chennai 600 005

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to disburse the retirement benefits like General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs together with interest to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.R.A.S.Senthilvel
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner, who is serving as Superintendent at the Regional Transport Office, Tiruvallur. Since he was arrested by the Vigilance and Anti-Corruption police, he was placed under suspension by order dated 17.8.2011 on the ground that he is facing both departmental and criminal proceedings. However, when he reached the age of superannuation on 30.9.2017, he was not permitted to retire from service, by an order dated 22.9.2017. But his grievance is that the contribution made to the General Provident Fund, Special Provident Fund, encashment of earned leave and encashment of unearned leave on private affairs can be disbursed to him, without reference to the pendency of the departmental and criminal proceedings.

2. Mr.R.A.S.Senthilvel, learned Additional Government Pleader takes notice on behalf of the respondent.

3. This Court has held in W.P.No.15457 of 2015 dated 2.6.2015 (P.K.Panchaksharam v. The Chairman cum Managing Director, Tamil Nadu Generation and Electricity Distribution Corporation Limited and others) that an employee who is facing either departmental or criminal proceedings is still entitled to get his contribution towards the Special Provident Fund, encashment of earned leave and encashment of unearned leave on private affairs and the said order was also confirmed by the Hon'ble Division Bench in W.A.No.207 of 2016 dated 26.2.2016, holding as follows:-

"4. The learned single Judge, considering all aspects of the matter, held that the petitioner was having earned leave and unearned leave on private affairs before initiation of the case and as such, he is entitled to encashment of earned leave and unearned leave on private affairs. The claim of gratuity was given up by the employee/writ petitioner on the ground that in the event of conviction and dismissal from service, the writ petitioner may not be entitled to get gratuity. The Special Provident Fund was also not granted as the writ petitioner failed to establish any contribution made by him. While disposing of the writ petition, a direction was made to the appellants herein to disburse encashment of earned leave and encashment of unearned leave on private affairs. In respect of special provident fund, it was held that if any contribution was made by the writ petitioner, the same can be paid to the petitioner. सत्यमेव जयते

5. We do not find any error, illegality or infirmity in the order sought to be impugned in this writ appeal preferred by the Tamil Nadu Generation and Electricity Distribution Corporation Ltd., warranting interference. Thus, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition stands closed."

4. In the light of the above, the respondent is directed to consider the representation of the petitioner herein for disbursement of his contribution made towards the General Provident Fund, Special Provident Fund, encashment of earned

leave and encashment of unearned leave on private affairs and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ss

To

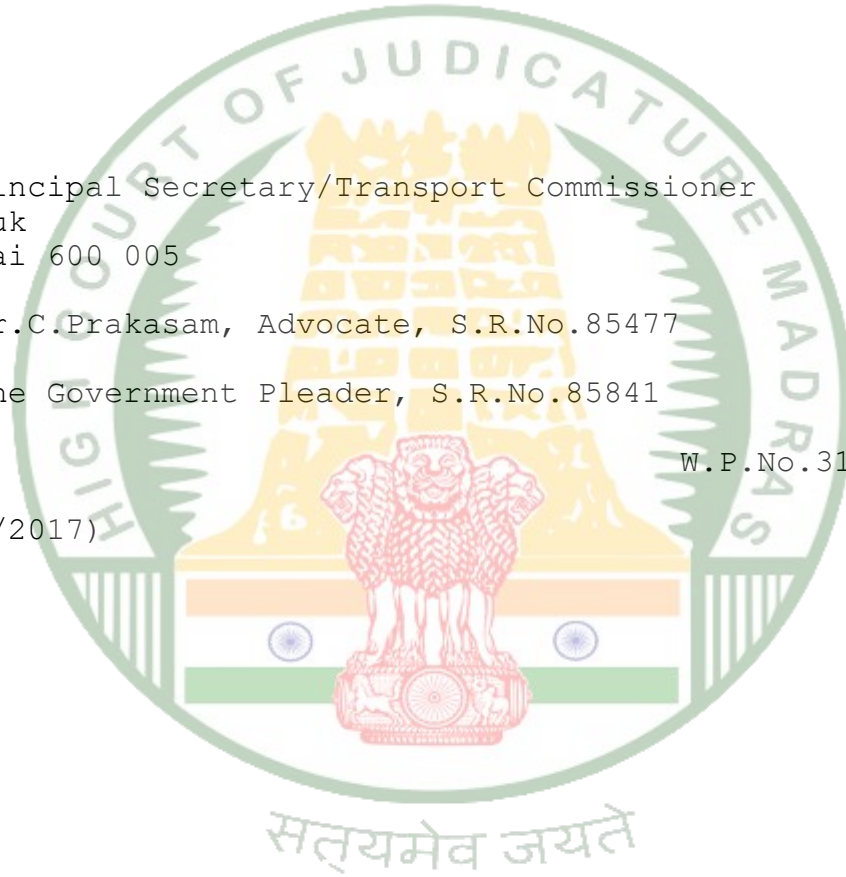
1. The Principal Secretary/Transport Commissioner
Chepauk
Chennai 600 005

+1cc to Mr.C.Prakasam, Advocate, S.R.No.85477

+1cc to the Government Pleader, S.R.No.85841

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RRK(15/12/2017)



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