

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3582/2017

D.Mahendrarvarman

.. Petitioner

Vs

The Commissioner/Director of
Treasuries and Accounts,
Panagal Building, Saidapet
Chennai-15.

.. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs and remaining arrears balance amount of subsistence allowance from the date of suspension to till date to the petitioner.

For Petitioner : Ms.J.Karthiga

For Respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondent.

2 The petitioner, while working as Additional Sub Treasury Officer at Rasipuram, was arrested by the Vigilance and Anti Corruption Detachment, Namakkal, on 25.10.2013, for alleged demand and acceptance of illegal gratification of Rs.800/- from Thiru A.Radhakrishnan, for passing Bills for Subsistence Allowance and Dearness Allowance arrears, in pursuant to the registration of the criminal case in Cr.No.6/AC/2013. Since the confinement of the petitioner exceeded 48 hours, he was placed under suspension by the respondent on 28.10.2013. The petitioner attained the age of superannuation on 31.05.2016 and he was not permitted to retire from service, vide order of the respondent dated 31.05.2016. The grievance expressed by the petitioner is that despite pendency of the criminal case, he is entitled to get terminal/retiral benefits, such as Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave, Encashment of unearned Leave on Private Affairs etc. The petitioner in this regard, submitted a representation dated 26.09.2016 to the respondent and though it was received and acknowledged, so far no orders have been passed and hence, the petitioner came forward to file the present writ petition.

3 Ms.J.Karthiga, learned counsel appearing for the petitioner has invited the attention of this Court to the judgment dated 26.02.2016 made in WA.No.207/2016 [*The Chairman cum Managing Director, Tamil Nadu Generation and Electricity Distribution Corporation Ltd., Tamil Nadu Electricity Board, No.144, Anna Salai, Chennai-2 and 2 others Vs. P.K.Panchaksharam*] and would submit that the order dated 02.06.2015 made in WP.No.15457/2015, came to be confirmed wherein, it has been held that the respondent / writ petitioner therein is entitled to encashment of Earned Leave and Unearned Leave on Private Affairs as well as the Special Provident Fund, if any contribution was made by the writ petitioners therein and prays for appropriate orders.

4 This Court heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents.

5 It is relevant to extract paragraph 4 of the above cited judgment in WA.No.207/2016 [cited supra] which reads thus:-

"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 of 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."

6 Though the petitioner has prayed for a 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 respondent to consider and dispose of the petitioner's representation dated 26.09.2016 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7 The writ petition stands disposed of with the above direction. No costs.

14.02.2017

Index : No
Internet : Yes

AP

To

The Commissioner/Director of
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M.SATHYANARAYANAN, J.,
AP

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