

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.16882 of 2017

and

W.M.P.Nos.18347 and 18348 of 2017

Dr.K.Sundaramoorthy,
Additional Director of Technical Education,
(Polytechnics),
(now under suspension),
No.3, Bhagavathy Nagar,
Iyyappa Nagar 2nd Main Road,
Medavakkam,
Chennai - 600 100. ...Petitioner

Vs

- 1.The Secretary to Government,
Higher Education Department,
Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Technical Education,
Guindy, Chennai - 600 025. ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent issued in Letter No.10502/D1/2016 dated 24.04.2017 and quash the same, consequently direct the 2nd respondent to sanction and disburse the Special Provident Fund, Encashment of Earned Leave and Private Affairs at the credit of the Petitioner as on 31.05.2016, within a reasonable period.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The relief sought for in this Writ Petition is to quash the order of the second respondent on 24.04.2017 and direct the second respondent to sanction and disburse the Special Provident Fund, Encashment of Earned Leave on Private Affairs at the credit of the petitioner as on 31.05.2016, within a reasonable period.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was initially appointed as Lecturer in Central Polytechnic at Tharamani on 03.01.1983. Subsequently, he was promoted as Head of the Department (Electronics) with effect from 01.03.1991 and further promoted to the post of Principal of Government Polytechnic College at Purasawalkam, Chennai. The petitioner was promoted as Additional Director of Technical Education(Polytechnics) in the Directorate of Technical Education and thereafter, he attained the age of superannuation on 31.05.2016.

3.On account of certain allegations, the writ petitioner was placed under suspension by G.O.(2D).No. 41, Higher Education Department, dated 26.05.2016 and his services were retained under Rule 56(1)(c) of the Fundamental Rules. Thus, the writ petitioner was not allowed to retire from service. Under these circumstances, the present writ petition is filed seeking disbursement of the General Provident Fund, Special Provident Fund and Encashment of Earned Leave on Private Affairs to the petitioner.

4.In this regard, this Court has already passed an order on 22.08.2017 in W.P.No.139 of 2016 and the relevant paragraphs are extracted here under:-

"5. The learned Additional Advocate General Mr.K.Venkataramani, while assisting the Court, also informed that the personal contribution of the employee, who is placed under suspension i.e., Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave shall be settled by the Competent Authorities, even during the pendency of the disciplinary proceedings.

6. In this regard, the learned counsel for the writ petitioner urged this Court in respect of the order passed in W.P.No.15457 of 2015 on 2.6.2015, paragraph-7 of the order is extracted as under:-

"7. In view of the same, a direction is issued to the respondents to disburse Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs. As far as Special Provident Fund is concerned, the respondents are directed to refund the same, if there is any contribution made by the

petitioner. If petitioner has contributed towards other terminal benefits, the extent to the contribution made by the petitioner shall also be paid. The respondents are directed to disburse the aforesaid amount, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed."

7. The above said order was taken by way of an appeal before the Hon'ble Division Bench in W.A.No.207 of 2016 and the order passed in that writ petition was confirmed and the Writ Appeal was dismissed. The State preferred SLP (C) No.016229 of 2016 and the same was also dismissed on 6.7.2017.

8. Thus, the respondent is directed to disburse the personal contribution of the writ petitioner, including Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave as early as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order."

5. In view of the orders passed in the writ petition cited supra, the relief sought for in the present writ petition also deserves to be considered. Accordingly, the respondents are directed to disburse the Encashment of Earned Leave on Private Affairs, and the personal contribution made by the writ petitioner to the Special Provident Fund, within a period of twelve weeks from the date of the receipt of a copy of this order.

6. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

stm

To

1.The Secretary to Government,
Higher Education Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner of Technical Education,
Guindy,
Chennai - 600 025.

+1cc to Government Pleader SR.No.83263

+1cc to Mr.T.Ranganathan, Advocate Sr.No.82507

sm:12.12.2017

W.P. No.16882 of 2017a



WEB COPY