IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.28423 & 28424 of 2017

K.Ravindran .. Petitioner in W.P.No.28423 of 2017
K.Rani .. Petitioner in W.P.No.28424 of 2017

-vs-

1. The Commissioner of Treasuries and Accounts
Chennai 600 015 .. 1st Respondent in both the W.P's

2. The Project Director
District Rural Development Agency
Tiruchirappalli .. 2nd Respondent in W.P.No.28423/17

3. The Project Director
District Rural Development Agency
Dharmapuri .. 2nd Respondent in W.P.No.28424/17

4. The principal Accountant General (A&E)
Tamil Nadu
Chennai 600 018 .. 3rd Respondent in both the W.P's

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents herein to grant and disburse (i) encashment of earned leave at credit, (ii) un-earned leave on private affairs, (iii) Special Provident Fund and (iv) the petitioners' contribution towards General Provident Fund to the petitioners along with interest on the delayed payment, within a limited time frame as deemed fit.

For Petitioners :: Mr.M.Ravi

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & 2

ORDER

The petitioners, while serving as Accounts Officers in the District Development Agency at Tiruchirappalli and Dharmapuri respectively on foreign service terms, suffered registration of criminal case by the Vigilance and Anti-Corruption Unit, Namakkal, as a result they were placed under suspension with effect from 26.4.2013 and 26.3.2012 respectively. Finally, in view of the pendency of the criminal case, they were not permitted to retire from service on reaching the age of superannuation on 30.4.2013 & 31.3.2012 respectively. Now the petitioners are facing both the departmental as well as the criminal proceedings. In the meanwhile, the petitioners have made representations in the year 2013, last of which were on 1.8.2017 and 1.6.2017 respectively seeking to release part of their retiral benefits, namely, encashment of earned leave and unearned leave on private affairs as well the contribution made by them to the Special Provident Fund and General Provident Fund. But the same have not been considered. Finally, an order has been passed on 6.8.2013 by the first respondent stating that till final order is passed in the departmental proceedings, the aforementioned retiral benefits would not be released. Taking support from an unreported order passed by this Court in W.P.No.21750 of 2015 dated 21.7.2015 (T.L.Nageswara Rao v. The District Collector, Tiruvallur), the learned counsel for the petitioners submitted that the retiral benefits such as encashment of earned leave and unearned leave on private affairs and the contribution made by the petitioners to the Special Provident Fund and General Provident Fund are the properties of the petitioners, therefore, they cannot be withheld by the State.

2. The learned Special Government Pleader for the respondents 1 & 2 submitted that when the request of the petitioners was already turned down by an order dated 6.8.2013, without challenging the same, they cannot come to this Court. Secondly, the departmental and the criminal proceedings have not come to an end. Therefore, the petitioners cannot hurriedly come to this Court seeking disbursement of the aforementioned retiral benefits.

3. At the outset, it may be mentioned that the petitioners have not sought for disbursement of all the retiral benefits. Since they have only sought for disbursement of the contribution made by them to the Special Provident Fund, General Provident Fund and encashment of earned leave and unearned leave on private affairs, the respondents could have considered their request. Moreover, this issue has already been considered by this Court in W.P.No.21750 of 2015 dated 21.7.2015 (T.L.Nageswara Rao v. The District Collector, Tiruvallur),

wherein it has been held as follows:-

> "4. No doubt, the terminal benefits, such as GPF, SPF, encashment of Eearned and Un-earned leave are the properties of the petitioner and the same cannot be withheld by the State. Even assuming that he is dismissed from service, he is entitled to receive the same. In these circumstances, I am inclined to issue a direction to the respondent as prayed for.
> 5. In the result, this writ petition is disposed of with a direction to the respondent to disburse the General Provident Fund, his contribution to Special Provident Fund, encashment of earned leave and encashment of unearned leave on private affairs payable to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed."

4. In view of the above, the respondents are directed to disburse the contribution made by the petitioners to the Special Provident Fund, General Provident Fund and encashment of earned leave and unearned leave on private affairs, being the properties of the petitioners, within a period of four weeks from the date of receipt of a copy of this order. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Treasuries
and Accounts
Chennai 600 015

2. The Project Director
District Rural Development Agency
Tiruchirappalli

3. The Project Director
District Rural Development Agency
Dharmapuri

4. The Accountant General (A&E)
Tamil Nadu
Chennai 600 018

+2cc to Mr.Ravi, Advocate, S.R.No.79070/79071

+1cc to the Government Pleader, S.R.No.79288

W.P.Nos.28423 & 28424 of 2017

VG II(co)
RRK (27/11/17)