

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7 of 2016

R.Kannaian

.. Petitioner

vs.

1.The Commissioner and Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Special Commissioner and Commissioner
for Revenue Administration,
Ezhilagam,
Chepauk,
Chennai-600 005.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to disburse the Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs to the petitioner.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.R.S.Selvam,
Government Advocate.

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to disburse the Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs to the writ petitioner.

2. The learned counsel appearing for the writ petitioner submits that the writ petitioner was appointed as Junior Assistant in the year 1976 through Tamil Nadu Public Service Commission in the Revenue Department and subsequently,

he was promoted to the posts of Assistant, Deputy Tahsildar and Tahsildar and in the year 2010, he was promoted to the post of Deputy Collector.

3. When the writ petitioner was holding the transferred post of District Manager (Retail Vending) TASMAL on deputation, on account of certain allegations regarding the illegal gratification, a criminal case was registered against the writ petitioner by the Vigilance and Anti-Corruption Department and accordingly, he was placed under suspension in proceedings dated 30.3.2012. Both the departmental disciplinary proceedings as well as the criminal case, are pending against the writ petitioner. While-so, the writ petitioner was due to retire from service on 15.5.2014 and the first respondent issued an order, not allowing the writ petitioner to retire from service and retained his services for the purpose of continuing the departmental disciplinary proceedings. In this regard, the terminal and retirement benefits due to the writ petitioner has not been settled.

4. The learned counsel for the writ petitioner submitted that though the prayer sought for in this writ petition is at large in nature, he is eligible to get the portion of his contribution in respect of Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave.

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 abovesaid 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 respondents are 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.

9. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

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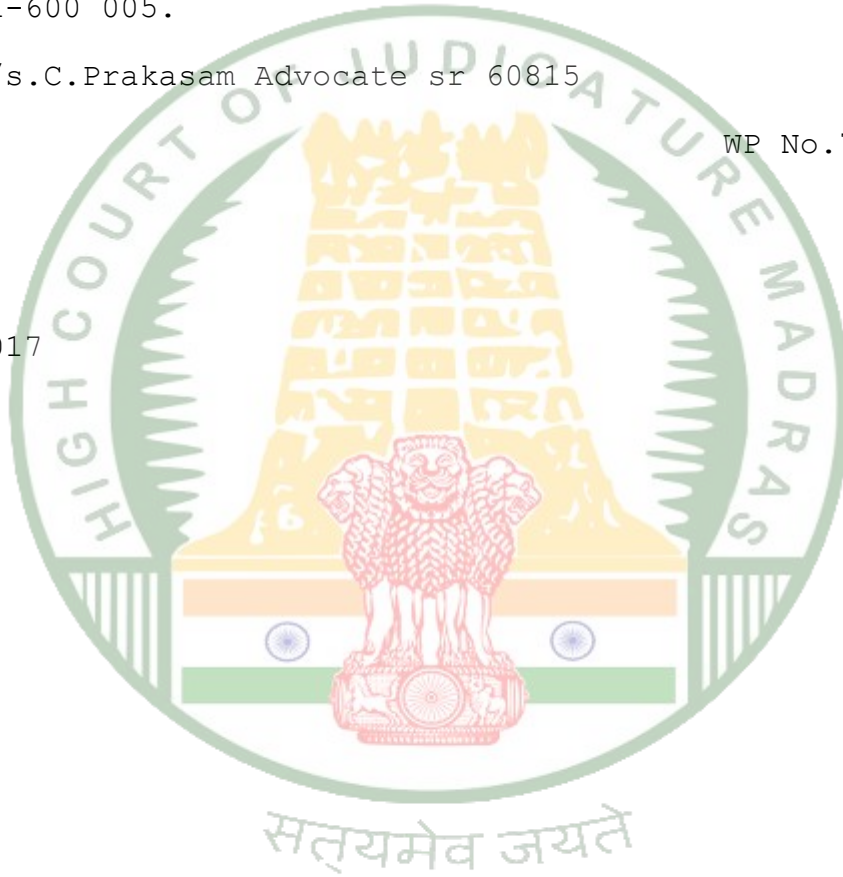
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+lcc to M/s.C.Prakasam Advocate sr 60815

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