



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAJAW.P.(MD)Nos.17086 & 17087 of 2017

R.Chandrasekaran :Petitioner in W.P.(MD)No.17086 of 2017
R.Deivegarajan :Petitioner in W.P.(MD)No.17087 of 2017

Vs.

1.The District Revenue Officer,
Tiruchirapalli District,
Tiruchirapalli.

2.The Revenue Divisional Officer,
Srirangam Division,
Srirangam,
Tiruchirapalli District.

3.The Tahsildar,
Srirangam Taluk,
Srirangam,
Tiruchirapalli District.

:Respondents in both writ petitions

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent ie., the District Revenue Officer, Tiruchirapalli to pass appropriate orders on the petitioner's representation dated 27.05.2017 and 03.07.2017 based on the earlier orders of this Hon'ble Court stating that the claim of Special Provident Fund and Encashment of Leave Salary are properties of the petitioner and it cannot be denied to the petitioner, within a specified time frame that may be fixed by this Court.

For Petitioner

: Mr.S.Visvalingam

For Respondents

: Mr.D.Muruganantham
Additional Government Pleader

COMMON ORDER

By consent of both parties, the writ petition itself is taken up for final disposal.

2.The present writ petition has been filed seeking a Writ of Mandamus directing the first respondent ie., the District Revenue Officer, Tiruchirapalli to pass appropriate orders on the petitioner's representation dated 27.05.2017 and 03.07.2017 based



on the earlier orders of this Hon'ble Court stating that the claim of Special Provident Fund and Encashment of Leave Salary are properties of the petitioner and it cannot be denied to the petitioner.

3.The petitioners namely R.Chandrasekaran and R.Deivegarajan were not permitted to retire from service and hence they were placed under suspension on 30.03.2012 and 26.05.2010, respectively, in view of the pendency of vigilance case against each of them. However, vide proceedings dated 11.05.2012 and 12.11.2010, Thasildar, Srirangam has sanctioned the subsistence allowance to the petitioners. Even now, the disciplinary proceedings are pending consideration. However, the petitioners have given representations on 27.05.2017 and 03.07.2017, seeking the respondent to disburse the Special Provident Fund and encashment of leave salary. The respondents have not considered the said representations. Therefore, the petitioners have come to this Court with the present writ petitions.

4.The learned counsel for the petitioner referring to an order dated 29.01.2016 made in *W.P.(MD)Nos.1484 of 2016*, submitted that on the date of reaching the superannuation, earn leave encashment benefit and the special Provident Fund dues from the employers shall be paid, irrespective of the fact whether departmental proceedings or criminal case pending against the employee. The issue raised in the present writ petition is no longer res integra. This court, while relying upon the judgment of the full bench of the Punjab and Haryana High Court has held that earn leave encashment, Special Provident Fund and General Provident Fund shall be paid and the same cannot be withheld by the respondents even if the employee is dismissed from service after conclusion of the departmental proceedings. At this stage, it is relevant to extract paragraph 10 of the judgment which reads as follows:

"11.Hence, I am of the view that the impugned order, dated 07.09.2015 passed by the second respondent, is liable to be interfered with. Further, while following the aforesaid judgment of the Full Bench Judgment of the Punjab and Haryanan High Court and also the order dated 04.07.2012 in W.P.No.9519 of 2012, I have held as follows in paragraph No.10 of the order dated 17.09.2014 in W.P.(MD)No.7986 of 2013:

10.The learned counsel for the petitioner relied on a judgment of this Court in W.P.(MD)No.9519 of 2012 dated 04.07.2012 to contend that even in the case of dismissal, Earned Leave Encashment cannot be denied, since it was only the wages that are payable to the petitioner. The following passage may be usefully

<https://hcservices.courts.gov.in/hcservices> below:

"4.In view of the filing of the additional affidavit by the petitioner and having regard to the



fact that special provident fund, general provident fund and encashment of earned leave cannot be withheld by the respondents even if she is dismissed from service after conclusion of the departmental proceedings, this Writ Petition is disposed of with a direction to the respondents to pay the petitioner the amount payable to her in respect of General Provident Fund, Special Provident Fund and Encashment of earned leave to her credit within a period of four weeks from the date of receipt of a copy of this order.""

5. In the light of the above observation, the respondents are hereby directed to consider the representations of the petitioners dated 27.05.2017 and 03.07.2017, within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petitions are disposed of with the above direction. No Costs.

Sd/-
Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar

To

1. The District Revenue Officer,
Tiruchirapalli District,
Tiruchirapalli.
2. The Revenue Divisional Officer,
Srirangam Division,
Srirangam,
Tiruchirapalli District.
3. The Tahsildar,
Srirangam Taluk,
Srirangam,
Tiruchirapalli District.

+2ccs to M/s.S.Visvalingam, Advocate, SR.Nos.77914 ad 77915
+One cc to The Special Government Pleader, SR.No.78290

MR/VSG
RL/7C/3P/MR/KKR/SAR2/27/9/2017

W.P. (MD) Nos.17086 & 17087 of 2017

11.09.2017