

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4271 of 2018

N.Venkatesan

.. Petitioner

-VS-

1. The Chairman cum Managing Director
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
No.144, Anna Salai
Chennai 600 002
2. The Superintending Engineer (O & M)
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
Chengalpet Electricity Distribution Circle
Chengalpet, Kancheepuram District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to disburse the petitioner's retirement benefits like General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs.

For Petitioner :: Mr.C.Prakasam

For Respondents :: Mr.P.R.Dhilip Kumar
Standing Counsel

ORDER

The petitioner, while serving as Junior Engineer Grade-I in the respondent-TANGEDCO, suffered a criminal case, for which he was also arrested under the provisions of the Prevention of Corruption Act on an allegation that he demanded a sum of Rs.1,300/- for effecting electricity service connection to the complainant.

2. Learned counsel for the petitioner submitted that the criminal case is pending. However, he reached the age of superannuation on 30.6.2016. But the second respondent has passed an order on 27.6.2016 not permitting the petitioner to retire from service. Since the petitioner is entitled to get the subsistence allowance and also the other retiral benefits irrespective of the pendency of the criminal case and the departmental proceeding, namely, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs, he has given a representation on 16.9.2017. But the same has not been considered. While considering a similar plea, a Division Bench of this Court in W.A.No.207 of 2016 by order dated 26.2.2016, issued a direction to the respondent-TANGEDCO to disburse the encashment of earned leave and encashment of unearned leave on private affairs and in respect of special provident fund, it was held that if any contribution was made by the writ petitioner therein, the same also can be paid to the petitioner therein. Therefore, a similar direction be issued, he pleaded.

3. The learned standing counsel for the respondents sought four weeks time to consider the pending representation dated 16.9.2017 submitted by the petitioner.

4. The issue raised in this writ petition has already been settled by the Hon'ble Division Bench of this Court in W.A.No.207 of 2016 by order dated 26.2.2016, holding as follows:-

"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 from 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."

5. In the light of the above, the respondents are directed to consider the representation of the petitioner for disbursement of his contribution towards the General Provident Fund, Special Provident Fund as well as for encashment of earned leave and encashment of unearned leave on private affairs and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. Consequently, W.M.P.No.5262 of 2018 is closed. No costs.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman cum Managing Director
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Tamil Nadu Electricity Board
Chengalpet Electricity Distribution Circle
Chengalpet, Kancheepuram District

+1 CC to Mr.P.R. Dilip Kumar, Advocate sr 14843

+1 CC to Mr.C. Prakasam, Advocate sr 15491

W.P.No.4271 of 2018

SP(13/03/2018)

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