

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.04.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.9428/2018

S.Dhanasekaran

... Petitioner

Versus

1. The Chairman cum Managing Director,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai - 2.
2. The Superintending Engineer,
Tamil Nadu Generation and Electricity
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle / West,
Anna Nagar, Chennai - 40

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the 2nd respondent to disburse the petitioner's retirement benefits like Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs to the petitioner.

For Petitioner : Mr.C.Prakasam

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

ORDER

This writ petition has been filed by the petitioner seeking for a writ of mandamus, to direct the 2nd respondent to disburse the petitioner's retirement benefits like Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs to him.

2. The petitioner would state that he was appointed as Tester (Grade II) in the Tamil Nadu Electricity Board in the year 1979 and subsequently, promoted as Junior Engineer (Grade - II) in the year 1987 and subsequently in the year 1995, he has been promoted as Junior Engineer Grade I. While she was discharging his duties as Junior Engineer (Grade - I) on 15.07.2011, he was arrested by the Vigilance and Anti Corruption Police and got suspended from service on 18.07.2011. The learned counsel appearing for the petitioner would further submit that the petitioner was not allowed to retire from service, though he attained superannuation on 30.04.2017 and no retirement benefits, has also been disbursed in this regard to him, though, he submitted a representation on 11.09.2017 to the 2nd respondent. Since no response is forthcoming, the petitioner came forward to file this writ petition.

3. The grievance of the petitioner is that though he was not allowed to retire as he was under the suspension, but having attained

superannuation, he is entitled for the encashment of Earned and Unearned Leave on Private Affairs, notwithstanding the pendency of such disciplinary proceedings against him. Hence, this Court may direct the respondents to disburse the said benefits, more so, in view of the fact that this Court, in similar facts and circumstances, vide order dated 29950 of 2017 made in WP No.2017, has held as follows :-

"3. Admittedly when the petitioner was serving as District Adi Dravidar and Tribal welfare Officer at Villupuram, he had suffered an order of suspension on 22.10.2013 on the basis of registration of a criminal case by the Vigilance and Anticorruption Department and he has also arrested and subsequently released on bail. In view of the same, he was placed under suspension by an order dated 22.10.2013. Now, the grievance of the petitioner is that he is not allowed to retire from service, although he reached the age of superannuation on 31.10.2017, on the ground of pending criminal case. Subsequently, the petitioner has given a representation on 10.10.2017 to the 2nd respondent, making a request to disburse his retirement benefits, namely, his contribution towards General Provident Fund, namely, his contribution towards General Provident Fund, Special Provident Fund, Encashment of earned leave and Encashment of unearned leave.

4. In view of the above, the writ petition is disposed of by directing the respondents to disburse the

retirement benefits of the petitioner, namely, his contribution towards GPF, Special Provident Fund, Encashment of Earned leave and Encashment of unearned leave to the petitioner within a period of four weeks from the date of receipt of copy of this order.”

4. The learned counsel appearing for the respondents would submit that if the above cited order squarely covers the case of the petitioner herein, the authority will do the needful, if directed in this regard.

5. Considering the facts and circumstances and submissions made, especially the settled position of law in this regard and the decision quoted supra, this Court disposes of this writ petition at the admission stage on consent of the parties, with a direction to the 2nd respondent to release retirement benefits of **unearned leave and earned leave** on private affairs as admissible to the petitioner, notwithstanding the pendency of the disciplinary proceedings and suspension of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

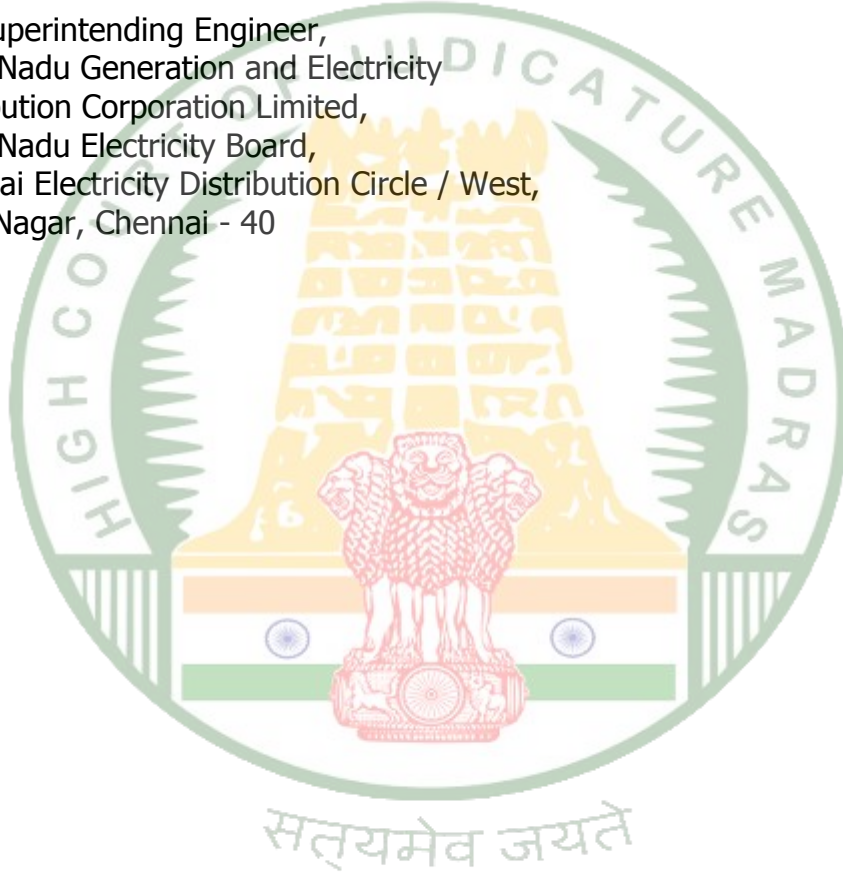
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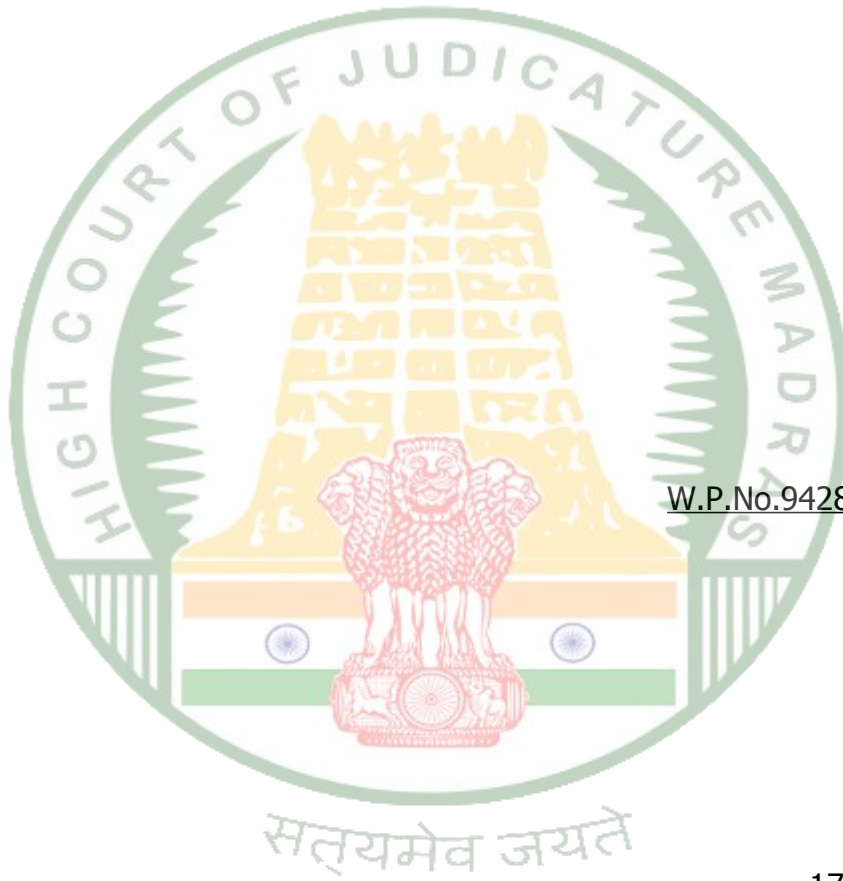
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SATRUGHANA PUJAHARI, J.,

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