IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.5712 of 2018

R.Govindaraj ...Petitioner

Versus

1. The Government of Tamil Nadu
   rep. by Secretary to Government,
   Commercial Taxes and Registration Department,
   Chennai-9.

2. The Inspector General of Registration,
   Chennai-28.

3. The Principal Accountant-General (A&E),
   Tamil Nadu, Chennai-18. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the petitioner within a time frame Encashment of Earned Leave and Unearned Leave on Private Affairs, Petitioner's Contribution to Family Benefit Fund with interest on the delayed payment.

For Petitioner : Mr.M.Ravi

For Respondents 1&2 : Mr.R.S.Selvam,
Government Advocate

O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to disburse the petitioner Encashment of Earned Leave amount and Unearned Leave on Private Affairs amount, Petitioner's Contribution to Family Benefit Fund with interest on the delayed payment within a time frame fixed by this Court.

2. Learned Counsel for the petitioner submitted that while the petitioner was serving as District Registrar, Tindivanam, he was placed under suspension by an order passed by the Government in G.O. (D) No.55, Commercial Taxes (H1) Department, dated 13.2.2008 and subsequently, in and by G.O. (D) No.84, Commercial Taxes and Registration (H1) Department dated 28.2.2008, he was not permitted to retire from service on 29.2.2008 and was retained in service until the enquiry into the charges against him is over and final orders passed by the concerned authority. Thereafter, the Tribunal for Disciplinary Proceedings, Tiruchirappalli issued a Charge Memo dated 9.4.2008 in JDP.No.9/2008 and final order has been passed in G.O.(2D)

No.105, Commercial Taxes and Registration (H) Department dated 5.8.2013 imposing the penalty of ''dismissal from service'' . The said order also has been questioned in W.P.No.1428/2014 by the petitioner and the same is also pending on the file of this Court.

3. Now, the petitioner, during the pendency of that writ petition has made a representation dated 22.01.2018 seeking for disbursement of his retiral benefits, namely, Encashment of Earned Leave and Unearned Leave on Private Affairs, Petitioner's Contribution to Family Benefit Fund in the light of the order passed by a Division Bench of this Court in W.A.No.458/2016 dated 13.4.2016(The District Collector, Tiruvallur District, Thiruvallur vs. T.L.Nageswara Rao). In this regard, it is relevant to extract Paragraph No.3 of the order hereunder :

> ''3. A vignette of the facts, leading to the filing of this intra-Court appeal is that, while the respondent was working as Deputy Tahsildar in the Revenue Department, a criminal case was registered against him under the provisions of the Prevention of Corruption Act. On the said ground, he was suspended from service. While so, on 30 September 2013, when he reached the age of superannuation, he was not permitted to retire on account of pendency of criminal case against him. Albeit he made a representation seeking release of terminal benefits such as General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Unearned Leave on Private Affairs, there was no response from the appellant. Hence, he filed the instant writ petition seeking a direction to the appellant for disbursal of the said benefits to him. The learned Single Judge, observing that the terminal benefits are the respondent's properties and as such, the same cannot be withheld by the State, even assuming that he is dismissed from service, disposed of the writ petition with a direction to the appellant to disburse the terminal benefits, as aforestated, to the respondent, within a period of six weeks. Feeling aggrieved, the State has come up with the intra-Court appeal.''

In the light of the above order, an order has been passed by me in W.P.No.29969/2017 dated 22.11.2017.

4. In view of all the above, the Writ Petition is disposed of directing the respondents to consider the representation of the petitioner dated 22.1.2018 seeking disbursement of his retiral benefits such as Encashment of Earned Leave and Unearned Leave on Private Affairs, Petitioner's Contribution to Family Benefit Fund, and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this Order. No costs.

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
   Government of Tamil Nadu,
   Commercial Taxes and Registration Department,
   Chennai-9.

2. The Inspector General of Registration,
   Chennai-28.

3. The Principal Accountant-General (A&E),
   Tamil Nadu, Chennai-18.

+1 C.C. to MR.M.Ravi Advocate SR.NO. 19431

+1 C.C. to The Government Pleader, High Court, Madras -104 SR.NO. 19694/18

W.P.No.5712 of 2018

SJ (CO)
VS 03.04.2018