IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.03.2018
CORAM:
THE HONOURABLE MR. JUSTICE T.RAJA
W.P.No.6807 of 2018

T.Datchinamurthy ... Petitioner

Vs

The Superintending Engineer,
Tamil Nadu Generation and Electricity
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle/
South-II, K.K.Nagar,
Chennai. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 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 Respondent : Mr.P.R.Dhilipkumar

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondent to disburse the petitioner's retirement benefits like Encashment of Earned Leave and Encashment of unearned Leave on Private Affairs to him.

2. Learned Counsel for the petitioner submitted that the petitioner while serving as Junior Engineer Grade-I at Perungudi/North on 14.3.2009, he was arrested by the Vigilance and Anti Corruption Police. Subsequently, he was also suspended from service on 20.3.2009 citing a reason that departmental and criminal proceedings are pending against him. In the mean time, though the petitioner attained the age of superannuation on 30.6.2015, he was not allowed to retire from service, in view of the pendency of the departmental and the criminal proceedings.

3. The learned Counsel for the petitioner further submitted that but the petitioner is entitled to get the benefits like encashment of Earned Leave and Unearned Leave on Private Affairs and the respondent cannot refuse the said benefits in view of the order passed by a Division Bench of this Court in W.A.No.207 of 2016 dated 26.2.2016 which has been followed by this Court in W.P.No.29950/2017 by order dated

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22.11.2017 (C.Thunaivendran vs. The Secretary to Government, Revenue Department, Fort St. George, Chennai-9 and two others).

4. It is well settled legal position that a Government servant, who is also facing departmental as well as the criminal proceedings, is entitled to get his part of retirement benefits, namely, his contribution towards General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of unearned Leave on Private Affairs. In the present case, the petitioner is seeking the benefits like encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs as on the date of his retirement.

5. Mr.P.R.Dhilipkumar, learned Standing Counsel who takes notice for the respondent sought two weeks time to consider the case of the petitioner by considering his representation dated 20.09.2017.

6. Placing on record the submission of the learned Standing Counsel for the respondent, the Writ Petition is disposed of by directing the respondent to consider the representation of the petitioner dated 20.09.2017 seeking the retirement benefits like encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs as on the date of his retirement and pass appropriate orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this Order. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To
1.The Superintending Engineer,
Tamil Nadu Generation and Electricity
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle/
South-II, K.K.Nagar,
Chennai.
+1 cc to Mr.C.Prakasam Advocate sr 23395

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