

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.4995 of 2018

S.Rajagopal

.. Petitioner

Vs

1.The Registrar of Cooperative Societies,
170, Periar EVR Salai,
Kilpauk, chennai - 10.

2.The Deputy Registrar of Cooperative Societies,
Nagapattinam.

3.The Joint Registrar of Cooperative Societies,
Nagapattinam Region,
Nagapattinam.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 and 2 to sanction and release the General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs at the credit of the petitioner in his account as on 31.05.2014, the date of superannuation, in the light of the decision of the Hon'ble Division Bench in W.A.No.1700 of 2015, dated 18.01.2016 ordered against the same respondents, within a reasonable period as may be fixed by this Court.

For petitioner : Mr.T.Ranganathan

For Respondents : Mr.L.P.Shanmugasundaram, Spl.GP

O R D E R

The petitioner seeks for issuance of a writ of mandamus to direct the respondents 1 and 2 to sanction and release the General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs to the credit of the petitioner as on 31.05.2014, the date of his superannuation, in the light of a decision of the Hon'ble Division Bench in

W.A.No.1700 of 2015, dated 18.01.2016.

2. Heard the learned counsel appearing on either side.

3. The petitioner, while working as Senior Inspector of Cooperative Societies in the office of the second respondent, attained the age of superannuation on 31.05.2014. But, he was not allowed to retire from the services, in view of pendency of three charge memos issued under Rule 17(b) of the Tamil nadu Civil Services (Discipline & Appeal) Rules and also in view of pendency of a criminal case against him in C.C.No.22/2011 on the file of the District Munsif-cum-Judicial Magistrate, Vedaranyam. Since the disciplinary proceedings are pending along with criminal case, he has made a representation dated 01.02.2018 to the respondents 2 and 3 requesting them to release part of his retiral benefits, namely, General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs, as on 31.05.2014.

4. Learned counsel for the petitioner has relied upon a judgment passed by me in J.Fernandez v. the Commissioner of Technical Education, Chennai, and another (W.P.No.1838 of 2018, dated 30.01.2018). In the said case also, when a similar prayer was made seeking a direction to the respondents therein to release the Special Provident Fund, Encashment of Earned Leave and Private Affairs, this Court, by taking note of a judgment passed by the Hon'ble Division Bench in W.A.No.207 of 2016, dated 26.02.2016, confirming the order passed in W.P.No.15457 of 2015, dated 02.06.2015, directing the official respondents therein to disburse the encashment of earned leave and encashment of unearned leave on private affairs to the writ petitioner therein, has issued a similar direction to the respondents therein to disburse the amount contributed by the petitioner towards Special Provident Fund, Encashment of Earned Leave and Unearned Leave on Private Affairs.

5. In view of the above, as the issue raised in the present writ petition has already been decided and concluded, this Court finds no hesitation to issue a similar direction to the respondents herein. It is at this stage, learned Special Government Pleader for the respondents stated that as the petitioner is facing three disciplinary proceedings, the respondents have decided to pass final order on or before 31.05.2018 and thereafter, the case of petitioner seeking to disburse his retiral benefits would be considered.

6. Learned counsel for the petitioner stated that the petitioner was acquitted in a criminal case filed in

C.C.No.22/2011 by the learned District Munsif-cum-Juridical Magistrate, Vedaranyam, on 27.05.2014. It is also further stated that since three charges framed against the petitioner are pending from 2011 onwards, in view of the settled legal position as stated supra, the petitioner is entitled to receive a part of the aforesaid retiral benefits.

7. Agreeing with the said submission, this Court hereby directs the respondents to release a part of the petitioner's contribution towards General Provident Fund, Special Provident Fund and Encashment of Earned Leave/Private Affairs, to his credit as on 31.05.2014, within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petition is disposed of. No Costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

- 1.The Registrar of Cooperative Societies,
170, Periar EVR Salai,
Kilpauk, chennai - 10.
 - 2.The Deputy Registrar of Cooperative Societies,
Nagapattinam.
 - 3.The Joint Registrar of Cooperative Societies,
Nagapattinam Region,
Nagapattinam.
- 1 cc to Mr.T.Ranganathan, Advocate Sr.No. 21823
 - 1 cc to The Government Pleader Sr.No.22372

GMI (CO)
RRI 11/04/2018

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