

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P. No.23894 of 2017

R.Sugumar

... Petitioner

Vs.

The Assistant Director of
Survey and Land Records,
Collectorate, Erode,
Erode District.

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to disburse the Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.N.Srinivasan,
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondent to disburse his Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs.

2.The petitioner was appointed as Surveyor in the Department of Survey and Land Records in the year 1982 and subsequently, he was promoted as Firka Surveyor in the year 1992. While so, he was arrested by the Vigilance and Anti Corruption Police. According to the petitioner, the respondent suspended him from service on 23.08.2003 and as per the order of Tamil Nadu Administrative Tribunal, he was reinstated into service on 14.07.2004. However, on 06.08.2012, he was imposed with punishment by the Chief Judicial Magistrate/Special Court for Anti-Corruption, Coimbatore. Aggrieved over the same, he approached this Court and obtained an order of suspension of sentence. According to him, after knowing the fact that he has been convicted, the respondent herein passed an order dismissing

him from service on 01.09.2012. The grievance of the petitioner is that though he made a representation on 09.07.2016 seeking retirement benefits like Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs, the same has not been considered till date.

3.Learned counsel for the petitioner would submit that in a similar circumstance, the Division Bench of this Court in W.A. No.207 of 2016 has passed an order dismissing the appeal preferred by the Tamil Nadu Electricity Board wherein in para 4, this Court has held 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 of 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."

As against which the said Tamil Nadu Electricity Board had preferred an S.L.P. before the Apex Court which was dismissed. Thereafter, though the petitioner made a request to disburse the amount due relating to encashment of earned leave and unearned leave, the respondent has not come forward to pass any order. Hence, the learned counsel for the petitioner seeks direction to the respondent to consider the representation made by the petitioner.

4.Considering the above said fact especially the order passed by this Court in the Writ Petition in W.P. No.15457 of 2015 which has been confirmed in the W.A. No.207 of 2016, this writ petition is disposed of with a direction to the respondent to consider the representation dated 09.07.2016 made by the

petitioner within a period of four weeks from the date of receipt of a copy of this order, keeping in mind the judgment dated 26.02.2016 passed by the Division Bench of this Court in the aforesaid W.A. Accordingly, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vga
To

1.The Assistant Director of
Survey and Land Records,
Collectorate, Erode,
Erode District.

2.The Chief Judicial Magistrate,
Special Court for Anti Corruption,
Coimbatore.

+1cc to Mr.C .Prakasam, Advocate Sr.35798
+1cc to the Government Pleader Sr.36255

W.P. No.23894 of 2017

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