



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12268 of 2018

S.Rajagopal

...Petitioner

Vs.

1) The Deputy Inspector General of Police,
Madurai Range,
Madurai - 625 002

2) The Superintendent of Police,
Madurai District,
Madurai - 625 007

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to make payment of the encashment of leave salary of the petitioner Thiru.S.Rajagopal, which he is entitled as per the number of orders of this Court within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mrs.S.Srimathy,

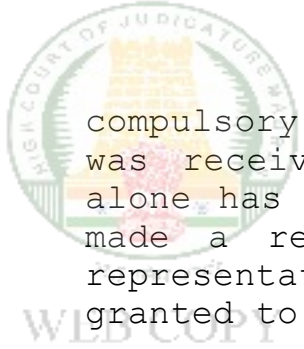
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondents to make payment of the encashment of leave salary of the petitioner Thiru.S.Rajagopal, which he is entitled as per the number of orders of this Court within a specified time frame that may be fixed by this Court.

2. Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3. The petitioner, on disciplinary proceedings was 'dismissed from service'. Subsequently, his punishment was modified and he has been given 'compulsory retirement from service'. Based on such



compulsory retirement, whatever service benefits available to him, was received by him. However, the encashment of leave salary alone has not been received by the petitioner. Therefore, he had made a request in this regard to the respondents by way of representation dated 04.04.2018. Therefore, if the said relief is granted to the petitioner, he would be satisfied.

4. On the other hand, Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents, on instructions would submit that, even though the petitioner has been compulsorily retired, the V & AC case is still pending against him. Moreover, if at all the petitioner is entitled to encash the leave salary, a maximum eligibility of a Government servant at his leave account in Earned Leave is 240 days and 180 days of Unearned Leave, which can alone be debited and settled. Therefore, if at all the petitioner is eligible to be considered for the encashment of leave salary, that depends upon the said eligibility only.

5. I have considered the said submissions made by both sides. In fact, the issue raised in the writ petition is no more *res integra*, as a number of cases of encashment of leave salary and Provident Fund amount payable to a retired Government servant or a suspended or dismissed Government servant on disciplinary action, were ordered. One such order was produced by the learned counsel appearing for the petitioner, where, in W.P.(MD).No.7761 of 2018, in the matter of **K.Palaniyandi vs., the Secretary to Government, Revenue Department and two others**, I have passed an order, confronting a similar situation. The relevant portions of the said order is extracted for easy reference.

"4.Insofar as getting the benefits of encashment of Leave Salary and Provident Fund is concerned, number of judgments have been passed by this Court and the learned counsel has relied upon the recent order of this Court made in W.P.(MD)No.4975 of 2018 dated 08.03.2018, where a learned Judge of this Court has held as follows:

"5.This Court has held on more than one occasion, these benefits could not be denied to the person, even if he is ultimately dismissed from service. Hence, a direction is issued to the first respondent to consider the petitioner's representation dated 05.02.2018 regarding the disbursement of general provident fund, special provident fund and earned leave encashment and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order."

5.Following the said order, I have considered a similar case in W.P.(MD)No.7174 of 2018 and passed an order dated 03.04.2018.The relevant portion of the said



"8. The respondents shall consider the request of the petitioner dated 07.01.2018 with regard to the sanction and disbursement of General Provident Fund, Special Provident Fund as well as the Encashment of Earned Leave of the petitioner and pass orders thereon, on merits and in accordance with law, especially, in the light of the aforesaid judgments cited herein, within a period of 6 weeks from the date of receipt of a copy of this order."

6. I have heard the learned Special Government Pleader appearing for the respondents, who may not dispute the legal position as set out above in a number of judgments of this Court.

7. In view of the above, this writ petition is disposed of with the following direction:

"The petitioner shall be entitled to claim the encashment of leave Salary. As well as Special Provident Fund amount and therefore the respondents are directed to disburse the same within a period of six weeks from the date of receipt of a copy of this order."

8. With this direction, this writ petition is disposed of. No costs."

6. In view of the aforesaid order passed by this Court, this Court is inclined to pass the following order:

"that the petitioner shall be entitled to encash the leave salary for which he is eligible, from the respondents. Therefore, his request, in this regard, dated 04.04.2018 shall be considered by the respondents and an order to that effect permitting the petitioner to encash the leave salary be passed, and after calculating the same, disburse the amount to the petitioner within a period of six weeks from the date of receipt of a copy of this order."

7. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CrI.side)

/True Copy/



1) The Deputy Inspector General of Police,
Madurai Range, Madurai - 625 002

2) The Superintendent of Police,
Madurai District,
Madurai - 625 007

+ 1 CC TO Mr.S.VISVALINGAM, ADVOCATE IN SR No. 67386
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67574

STS

TE/RP/SAR-4 : 26/10/2018 : 4P/5C

Order made in
W.P. (MD) No.12268 of 2018
08.06.2018