



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.7761 of 2018

K.Palaniyandi

... Petitioner

Vs.

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.

2. The Special Commissioner and
Commissioner of Revenue
Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The District Collector,
Virudhunagar District,
Virudhunagar.

... Respondent

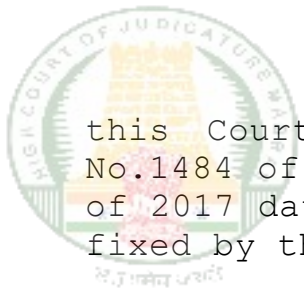
Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent i.e. the Secretary to the Government, Revenue Department, Chennai to disburse the Encashment of Leave Salary and Special Provident Fund as per the petitioner's representation dated 16.10.2017 based on the earlier orders of the Hon'ble High Court in W.P.No.16098 of 2015 dated 08.06.2015, W.P.(MD) No.1484 of 2016 dated 29.01.2016 and recently in W.P.(MD) No.11791 of 2017 dated 27.06.2017 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mrs.S.Srimathy, Spl. G.P.

O R D E R

The prayer sought for in this writ petition is for a writ of mandamus, directing the first respondent i.e. the Secretary to the Government, Revenue Department, Chennai to disburse the Encashment of Leave Salary and Special Provident Fund as per the petitioner's representation dated 16.10.2017 based on the earlier orders of



this Court in W.P.No.16098 of 2015 dated 08.06.2015, W.P.(MD) No.1484 of 2016 dated 29.01.2016 and recently in W.P.(MD) No.11791 of 2017 dated 27.06.2017 within a specified time frame that may be fixed by this Court.

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

3. The petitioner was last served as Assistant Commissioner of Excise at Virudhunagar and his superannuation date was 30.06.2016. However, he was not allowed to retire and he was placed under suspension by order dated 30.06.2016. Thereafter, the petitioner is getting subsistence allowance alone. Though the petitioner has received General Provident Fund, he has not received the Encashment of Leave Salary and Special Provident Fund.

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 order would run thus:

"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.

Sd/-

Assistant Registrar (Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai - 600 009.

2. The Special Commissioner and
Commissioner of Revenue
Administration,
Ezhilagam, Chempauk,
Chennai - 600 005.

3. The District Collector,
Virudhunagar District,
Virudhunagar.

+ 1 cc TO Mr. S. Visvalingam, Advocate in SR No. 60415

+ 1 cc TO The Special Government Pleader in SR No. 60710

Arul

AE/SKN RSK/SAR2/24.04.2018/3P/6C

W.P (MD) No. 7761 of 2018
10.04.2018