



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.13462 of 2018

K.Kuberanarayanan

... Petitioner

-Vs-

1. The Director of Sericulture,
Nethaji Nagar,
Hasthampatti,
Salem-636 007.

2. The Regional Deputy Director,
Sericulture,
1/733, Abirami 1st Cross Street,
Visvasanthi Nagar,
Anaiyur Post- 625 017,
Madurai.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents i.e., the Director of Sericulture, Salem and the Regional Deputy Director of Sericulture, Madurai to take immediate action to disburse the Encashment of Leave Salary and Special Provident Fund within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.K.Saravanan
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents i.e., the Director of Sericulture, Salem and the Regional Deputy Director of Sericulture, Madurai to take immediate action to disburse the Encashment of Leave Salary and Special Provident Fund within a specified time frame that may be fixed by this Court.

2. Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the respondents.



3.The learned counsel appearing for the petitioner would submit that, the petitioner was serving as Inspector of Sericulture in the office of the Regional Deputy Director of Sericulture, Madurai. Though he attained the superannuation on 31.03.2018, the petitioner was not permitted to retire and he was placed under suspension, by proceedings dated 27.03.2018, by the Director of Sericulture, Salem. Since the petitioner was placed under suspension, he was getting only subsistence allowance. Though he had received General Provident Fund, he was not disbursed the Encashment of leave salary as well as the Special Provident Fund. Even if the petitioner is placed under suspension and he has not been permitted to retire from service, he would be entitled to get the Encashment of leave salary and Special Provident Fund and therefore, in this regard, the petitioner had given a representation dated 11.05.2018. However, the respondents have not passed any orders disbursing the said amount. Therefore, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that, the issue seeking benefit of Special Provident Fund and Encashment of leave salary has been decided in a number of cases and in this regard, he has cited an order passed by this Court made in W.P.(MD)No.7761 of 2018, dated 10.04.2018 and submitted that, the said issue since has been covered by a number of decisions, including the decision referred to above, the relief sought for by the petitioner can be granted.

5.I heard Mr.K.Saravanan, learned Government Advocate appearing for the respondents, who would submit that, in view of the order passed by this Court, in a number of cases of similar nature, the said benefit of Encashment of leave salary as well as Special Provident Fund to be disbursed and an order to that effect passed by the respondents within a time frame.

6.I have considered the said submissions made by both sides.

7.As has been rightly pointed out by the learned counsel appearing for the petitioner, the issue raised herein is no more *res integra*. As in a number of cases, similar order has been passed, wherein the employees concerned, who approached this Court had been given the benefit of Encashment of leave salary and special provident fund as those benefits cannot be withheld by the respondents, even ultimately, if the employees removed from service, after completing the disciplinary proceedings.

8.In this regard, I had occasions to consider similar issues in a number of cases, one of such case is W.P.(MD)No.7761 of 2018 in **K.Palaniyandi Vs. The Secretary to Government, Revenue Department, Chennai and two others**, wherein I have passed an order in the following effect:-

"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."

9. In view of the above, since the issue has already been settled, this Court is inclined to pass the following order in this Writ Petition.

"the respondents are directed to pass necessary orders disbursing the Encashment of leave salary as well as Special Provident Fund payable to the petitioner and



the said order shall be passed and the amount be disbursed to the petitioner within a period of six weeks from the date of receipt of a copy of this Order."

10. With this direction, this Writ Petition is ordered accordingly. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Director of Sericulture,
Nethaji Nagar,
Hasthampatti,
Salem-636 007.
2. The Regional Deputy Director,
Sericulture,
1/733, Abirami 1st Cross Street,
Visvasanthi Nagar,
Anaiyur Post- 625 017,
Madurai.

+ 1 CC TO Mr.S.VISVALINGAM, ADVOCATE IN SR No. 69557
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 69772

RMI

TE/BK/SAR-4 : 26/12/2018 : 4P/5C

W.P. (MD) No.13462 of 2018
25.06.2018