

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 22.06.2018****CORAM:****THE HON'BLE MR.JUSTICE R.SURESH KUMAR****W.P. (MD) No.13376 of 2018**

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A.Karunanithi

...Petitioner

Vs.

1) The District Collector,
Tiruchirapalli District,
Tiruchirapalli.

2) The Revenue Divisional Officer,
Srirangam,
Tiruchirapalli District.

3) The Tahsildar,
Srirangam,
Tiruchirapalli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent(i.e.,) the District Collector, Tiruchirapalli District to take immediate action to disburse the General Provident Fund, 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.**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 District Collector, Tiruchirapalli District to take immediate action to disburse the General Provident Fund, 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 petitioner was working as a Village Administrative Officer. After having served for long years, he was to be superannuated on 31.03.2015. However, he was placed under suspension, pursuant to the disciplinary proceedings initiated



against him and ultimately, he was dismissed from service on 28.12.2011. As against the orders of conviction by the Special Court for Trial of Cases under Prevention of Corruption Act in Special Case, the petitioner had preferred an Appeal before this Court and the same is pending.

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4. Even though the petitioner was dismissed from service and the issue is pending before this Court, it is the claim of the petitioner that, the petitioner is entitled to get Provident Fund amount, Special Provident Fund amount and Encashment of Leave Salary.

5. In this regard, Mr.S.Visvalingam, learned counsel appearing for the petitioner would submit that, even a dismissed Government Employee is entitled to get the said benefits and in this regard, a number of orders have been passed by this Court. Learned counsel for the petitioner also relied upon the recent order passed by this Court, where, I had an occasion to consider a similar issue in W.P.(MD).7761 of 2018 in the matter of K.Palaniyandi vs., The Secretary to Government, Revenue Department and two others and passed the following orders:

"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

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."

Therefore, the learned counsel for the petitioner would submit that, a similar relief could be given to this writ petitioner also, as he is similarly placed.

7. I have heard Mr.K.Saravanan, learned Government Advocate appearing for the respondents, who would submit that, since the petitioner has been dismissed from service, the aforesaid benefits have not been disbursed.

8. I have considered the said submissions made by both sides and have also perused the materials placed before this Court.

9. Since the issue raised in this Writ Petition has been decided in a number of cases and in the case stated supra, I had an occasion to consider a similar issue and pass an order as referred above. In view of the same, this Court is of the concerned view that, the petitioner is also entitled to get the said benefits of Provident Fund amount, Special Provident Fund amount and Encashment of Leave Salary. Therefore, in the circumstances of the case, this Court is inclined to pass the following orders:

"That the respondents are directed to disburse the General Provident Fund, Special Provident Fund and Encashment of Leave Salary, payable to the petitioner, ~~but not exceeding~~ within a period of four weeks from the date of receipt of a copy of this order."



10. With these directions, this Writ Petition is Ordered as indicated above. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

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/True Copy/

Sub Assistant Registrar

To

- 1) The District Collector,
Tiruchirapalli District,
Tiruchirapalli.
- 2) The Revenue Divisional Officer,
Srirangam,
Tiruchirapalli District.
- 3) The Tahsildar,
Srirangam,
Tiruchirapalli District.

+1cc to Mr.S.Visvalingam, Advocate Sr.No.69330

+1cc to The Spl. Government Pleader Sr.No.69585

STS

VB/PN/SAR4/18.07.2018/4P/6C

Order made in
W.P. (MD) No.13376 of 2018
22.06.2018