



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.16543 of 2018

Pl.Surya Kala

... Petitioner

Vs

The Inspector General of Registration,
No.11, Santhome High road,
Chennai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, by directing the respondent to disburse the Encashment of Leave Salary in the light of the petitioner's representation dated 09.07.2018 and 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.7761 of 2018 dated 10.04.2018, within a specified time frame that may be fixed by this Court.

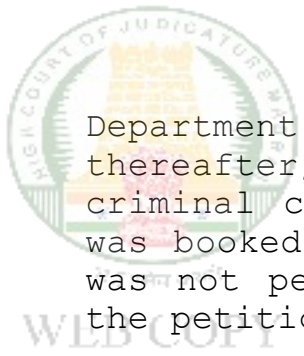
For Petitioner : Mr.R.Anand
For Respondent : Mr.M.Murugan,
Government Advocate.

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondent to disburse the encashment of leave salary in the light of the petitioner's representation dated 09.07.2018 and based on the earlier orders of this Court made 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.7761 of 2018 dated 10.04.2018 within a specified time frame that may be fixed by this Court.

2. Heard Mr.R.Anand, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, appearing for the respondent.

3. Learned counsel for the petitioner would submit that, the petitioner was appointed as Junior Assistant at the respondent



Department on 06.02.1985 and he was promoted as Assistant, thereafter, promoted as Sub Registrar. While so, on 18.11.2015, a criminal case by the Department of Vigilance and Anti Corruption was booked against the petitioner, with a result, the petitioner was not permitted to retire on superannuation, on 31.06.2018 and the petitioner was retained in service.

4. In this regard, the learned counsel appearing for the petitioner would submit that, though the petitioner had been rendering service for 34 years to the respondent Department, she was not permitted to retire from service, by citing the reason of pendency of criminal case against the petitioner and therefore, the petitioner has not been paid any retiral benefits. However, the petitioner shall be entitled to get the Special Provident Fund and encashment of leave salary, which shall not be withheld by the employer, even assuming that the petitioner is involved in the criminal case.

5. In this regard, the learned counsel appearing for the petitioner would rely upon the decision of this Court made in W.P. (MD) No.16098 of 2015, which was followed by me in W.P. (MD) No.7761 of 2018 by order dated 10.04.2018. Therefore, in this regard, the petitioner has given a representation dated 09.07.2018 to the respondent, seeking for the said benefit of encashment of leave salary and in the light of the judgment, if the said representation is directed to be considered and order to that effect is directed to be passed within a time frame that may be fixed by this Court, the petitioner would be satisfied.

6. I have heard Mr.M.Murugan, learned Government Advocate appearing for the respondent, who would submit that, since similar orders are passed by this Court, the petitioner's representation dated 09.07.2018 would be considered on merits and in accordance with law and if he is eligible to get the benefit for encashment of leave salary, the same would be considered and decided within a time frame that may be fixed by this Court.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the issue raised is no more *res integra*, as in a number of cases order for the respective respondent about the entitlement of the employee to get the encashment of leave salary has been given and in the said order in W.P. (MD) No.7761 of 2018 dated 10.04.2018, I have 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 counsel 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."

8. Since the petitioner is also similarly placed, as she is entitled to get the benefit of the encashment of leave salary, for which, he has already given a representation dated 09.07.2018, this Court is inclined to pass the following orders:-

"that the respondent is directed to consider the representation of the petitioner dated 09.07.2018 and pass orders thereon, by taking into account the decision of the respondent regarding the leave salary payable to the petitioner for which the petitioner is entitled to and such a decision shall be taken by the respondent within a period



of four weeks from the date of receipt of a copy of this order. "

9. With this direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Inspector General of Registration,
No.11, Santhome High road,
Chennai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 75649
+ 1 CC TO Mr.R.ANAND, ADVOCATE IN SR No. 75772

STS

TE/BK/SAR-4 : 03/12/2018 : 4P/4C

Order made in
W.P. (MD) No.16543 of 2018
27.07.2018