



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.17251 of 2018

S.B.Rajamony

... Petitioner

Vs.

1.The District Collector,
Collector's Office,
Nagercoil and Post,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram Division,
Thuckalay and Post,
Kanyakumari District 629 175.

3.The Accountant General,
Office of Accountant General,
Teynampet,
Chennai - 600 018.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to settle the terminal benefits like Gratuity, Commutation of Pension, earned leave benefits and other benefits to the petitioner, within a time frame.

For Petitioners : M/s.M.Maria Vinola

For Respondent : Mr.K.Saravanan, G.A. For RR1 & 2

Mr.P.Gunasekaran for R3

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondents to settle the terminal benefits like Gratuity, Commutation of Pension, earned leave benefits and other benefits to the petitioner, within a time frame.

for the respondents 1 and 2 and Mr.P.Gunasekaran, learned standing counsel appearing for the third respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Village Administrative Officer in the year 1984 at Tirunelveli District. In the year 2013, a charge sheet was filed against the petitioner alleging misappropriation of money and dereliction of duty. Because of which, though he attained superannuation, he was not permitted to retire by order dated 29.11.2013. The petitioner even though had given explanation and also representation, he has not been so far permitted to retire from service. In that context, the petitioner has given representation to get certain retiral benefits like gratuity, commutation of pension as well as earned leave benefits and in this regard, the petitioner had sent representation to the respondents on 06.05.2017. In spite of this request having been made by the petitioner, no action was forthcoming from the respondents and such terminal benefits, for which, the petitioner is entitled to, has not so far been disbursed by the respondents. Therefore, the petitioner is before this Court.

4.I have heard the learned Government Advocate appearing for the respondents 1 and 2 and the learned standing counsel appearing for the third respondent, who would submit that, insofar as the claim made by the petitioner with regard to the terminal benefits like gratuity, commutation of pension, earned leave benefits are concerned, the petitioner may be entitled to get earned leave benefits and so far the gratuity is concerned, after deduction statutorily, remaining amount, the petitioner is entitled to and therefore, all these benefits would be calculated in accordance with the rule and accordingly, the same would be disbursed, within a time frame.

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

6.Similar issue has been considered by this Court in number of cases and in one such case in W.P.(MD)No.7761 of 2018 in *K.Palaniyandi Vs. The Secretary to Government, Revenue Department, Secretariat, Chennai and two others*, I passed an order on 10.04.2018, where, the said issue has been considered and the following orders have been passed:

"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."

7.In view of the aforesaid order of this Court and earlier orders and by taking into account the factual matrix of this case, this Court is inclined to pass the following order:

"The first respondent is directed to consider the said request of the petitioner dated 06.05.2017 and after considering the same, necessary order shall be passed with regard to the disbursement of terminal benefits like gratuity, commutation of pension and encashment of earned leave salary as permissible under rule and such order of disbursement shall be made by the first respondent, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said order from the first respondent, the third respondent shall act upon in accordance with law to ensure that the benefits are disbursed to the petitioner at the earliest.

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

SD
ASSISTANT REGISTRAR (AS)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS IV)

Arul



To

1.The District Collector,
Collector's Office,
Nagercoil and Post,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram Division,
Thuckalay and Post,
Kanyakumari District 629 175.

3.The Accountant General,
Office of Accountant General,
Teynampet,
Chennai - 600 018.

1CC TO MR. R. DIWAKARAN, ADVOCATE SR 77228
1CC TO MR. P. GUNASEKARAN, ADVOCATE SR 77097
1CC TO THE SPL GOVT PLEADER SR 77250

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