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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.17330 of 2018

G.Sukumaran ... Petitioner

Vs.

The District Collector,
Thanjavur District
Thanjavur ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent i.e., the District Collector, Thanjavur 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 Petitioners : Mr.S.Visvalingam
For Respondent : Mr.K.Saravanan, G.A.

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondent i.e., the District Collector, Thanjavur 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 respondent.

3.The learned counsel appearing for the petitioner would submit that the petitioner was last serving as Special Tahsildar (Chatram Administration), Thanjavur under the control of the respondent. His date of superannuation was on 30.04.2016. However, he was placed under suspension and therefore, he was not allowed to retire by the proceedings of the respondent dated 29.04.2016 on the reason that there is a Vigilance and Anti Corruption case registered against the petitioner which is pending before the Chief Judicial Magistrate,

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Kumbakonam, Thanjavur District. From the date of suspension, the petitioner is getting subsistence allowance. He has also received his G.P.F. amount. However, he has not received the encashment of leave salary as well as the special provident fund amount. In order to get the said benefits, the petitioner had made a representation on 14.09.2016 and the said representation also has not been considered and no orders has been passed and the said benefits have not so far been disbursed to the petitioner. Hence, the petitioner is before this Court.

4.I have heard the learned Government Advocate appearing for the respondent, who would submit that, insofar as the Special Provident Fund is concerned for the contribution of the petitioner alone, he is entitled. In respect of the encashment of leave salary, as per the eligibility of his leave alone, such encashment would be permitted.

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

6.Similar issues have already 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."

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

7.In view of the said judgment and earlier other judgments and in view of the facts and circumstances of the case, this Court is inclined to pass the following order:

> "The respondent is directed to consider the representation of the petitioner dated 14.09.2016 and pass orders thereon for grant of encashment of leave salary as well as the contribution of the petitioner on special provident fund and disburse the said amount to the petitioner, within a period of four weeks from the date of receipt of a copy of this order."

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

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar(CS IV)

Arul

To

The District Collector,
Thanjavur District
Thanjavur.

1CC TO MR. S. VISVALINGAM, ADVOCATE SR 76883
1CC TO THE SPL GOVT PLEADER SR 77279

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