



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A.[MD]No.1423 of 2018
and
C.M.P.[MD]No.9980 of 2018

1. The District Collector,
(Panchayat Development Unit),
Collectorate Complex,
Madurai - 625 020.
2. The Block Development Officer,
(Village Panchayat),
Kalligudi Panchayat Union,
Tirumangalam Taluk,
Madurai District.

: Appellants/Respondents

Vs.

V.Balasubramanian

: Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order passed in W.P.[MD]No.4350 of 2018, dated 27.03.2018, by allowing this Writ Appeal.

Prayer in WP(MD)No.4350 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent i.e., the District Collector, Madurai to disburse the Encashment of Leave Salary which was earned by the petitioner while he was in service based on his representation dt.22.12.2017 and earlier orders of the Honble High Court in WP.No.16098 of 2015 dated 08.06.2015, W.P. (MD)No.1484 of 2016 dated 29.01.2016 and in W.P.(MD)No.11791 of 2017 dated 27.06.2017 within a specified time frame that may be fixed by this Hon'ble Court.

For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader
For Respondent : S.Visvalingam



JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

Challenging the order of the learned Single Judge, by which the retiral benefits were sought to be disbursed to the respondent by the appellants notwithstanding the pendency of the criminal case, pending on the date of superannuation, the present appeal has been filed.

2.The learned Special Government Pleader appearing for the appellants would submit that the order of the learned Single Judge cannot be sustained in the eye of law as the respondent was not permitted to retire, pending criminal case.

3.The learned Counsel appearing for the respondent would submit that the encashment of earned leave is acquiring a property owned by a person and therefore, notwithstanding the order of dismissal, the same cannot be denied. Reliance has been made on the order of the learned Single Judge in **T.Veeravinothan Vs. Registrar of Co-operative Societies, Kilpauk, Chennai and others** reported in **2016-1-LLJ-730 (Mad)**, wherein it has been held as follows:

"15.On the other hand, if an employee has chosen to accumulate his earned leave to his credit, the encashment of the same cannot be deprived on the dismissal, since his Earned Leave to his credit is nothing but his property as held by the Full Bench of the Punjab and Haryana High Court."

4.Considering the above, we are of the view that the order of the learned Single Judge giving a direction to the respondents to disburse all the benefits cannot be sustained, except to the extent of payment of earned leave salary alone. In the light of the decision supra, the encashment of earned leave is to be treated as a property owned by a person even one assumes a worst situation by which the employee is dismissed.

5.In such view of the matter, this Writ Appeal stands allowed in part. Accordingly, the appellants are directed to release the earned leave salary of the respondent within a period of eight [8] weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)



1. The District Collector,
Madurai.

2. The Block Development Officer,
(Village Panchayat),
Kalligudi Panchayat Union,
Tirumangalam Taluk,
Madurai District.

+ 1 CC TO Mr.S.VISVALINGAM, ADVOCATE IN SR No. 90981
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 91129

MR

TE/PM/SAR-4 : 16/11/2018 : 3P/5C

JUDGMENT MADE IN
W.A.[MD]No.1423 of 2018
22.10.2018