

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.25530 of 2019

S.Kannan

..Petitioner

vs

1.The Chief Engineer
Chennai Region / CEDC South
TANGEDCO, Anna salai
Chennai-600 002.

2.The Superintending Officer
CEDC/South-I, TANGEDCO
K.K.Nagar, 110 KV Sub-station
Chennai-600 078.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to settle all eligible terminal benefits such as Earned Leave, Unlearned leave on private affairs, GPF, SPGF 2000, SPF, FSFS, Gratuity and so on, to the petitioner on his having attained the age of superannuation on and from 31.03.2019 pending disposal of the criminal trial vide Spl.C.C.No.10/2010 on the file of the Chief Judicial Magistrate, Thiruvallur, within time frame.

For Petitioner : Mr.K.Ravi Anantha Padmanaban
For Respondents : Mr.P.R.Dilip Kumar

O R D E R

Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to settle all eligible terminal benefits such as Earned Leave, Unlearned leave on private affairs, GPF, SPGF 2000, SPF, FSFS, Gratuity and so on, to the petitioner on his having attained the age of superannuation on and from 31.03.2019 pending disposal of the criminal trial vide Spl.C.C.No.10/2010 on the file of the Chief Judicial Magistrate, Thiruvallur, within time frame.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3.The case of the petitioner is that the petitioner is an retired employee. Due to pendency of the criminal case, terminal benefits were not given to the petitioner. Hence the petitioner made representations on 01.04.2019 and 27.07.2019 to the respondents seeking terminal benefits. However, the petitioner's representations were not considered by the respondents till date. Hence, this writ

petition.

4. Learned counsel appearing for the petitioner would submit that the petitioner is entitled to receive the amounts so collected from his salary during his service, which are credited to his General Provident Fund account, Special Provident Fund account and his Earned Leave and Leave Earned on private affairs amounts, even if the enquiry is pending. He further submitted that the very same issue came up before this Court for consideration. The Division Bench of this Court by **judgment dated 31.07.2019 made in W.A.(MD)No.105 of 2019 (The Secretary to Government and others vs. K.Palaniyandi)** passed the order, in which, para-7 is extracted hereunder:

"7. On the other hand, the learned counsel appearing for the respondent/writ petitioner submitted that Earned Leave Salary and Special Provident Fund are the property of the writ petitioner, over which, the department cannot stake any claim. He further submitted that these are the benefits, which are already accrued and accumulated in the account of the petitioner, which he is entitled to get on attaining superannuation. He further pointed out that even assuming that the departmental proceedings would result in dismissal of the writ petitioner, still he is

entitled to get these benefits, as such dismissal would only disentitle him from getting pensionary benefits. In support of his contention, the learned counsel relied on a decision reported in **2016-1-LLJ-730 (Mad) [T.Veeravinothan vs. Registry of Co-operative Societies, Kilpauk, Chennai and others]**, an order passed in **W.A.No.207 of 2016 dated 26.02.2016** by the Division Bench of this Court, an order passed by the Hon'ble Apex Court in **SLP No(s).16229 of 2016 dated 06.07.2017** confirming the order passed in **W.A.No.207 of 2016 dated 26.02.2016** and another order of the Division Bench of this Court in **W.A.(MD)No.1423 of 2018 dated 22.10.2018."**

5. Learned counsel for the petitioner would further submit that this Court may pass a similar order in the light of the above judgment and issue a direction to the respondents to consider the representations of the petitioner within the stipulated time.

6. Learned counsel for the respondents has not disputed the facts submitted by the learned counsel for the petitioner.

7. Considering the facts and circumstances of the case, this

Court hereby issues a direction to the respondents to consider the petitioner's representations dated 01.04.2019 and 27.07.2019 in the light of the Division Bench judgment of this Court dated **31.07.2019 made in W.A(MD)No.105 of 2019** and settle the eligible terminal benefits to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is accordingly disposed of. No costs.

20.09.2019

Index : Yes/No
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Note: Issue order copy on 23.09.2019

To

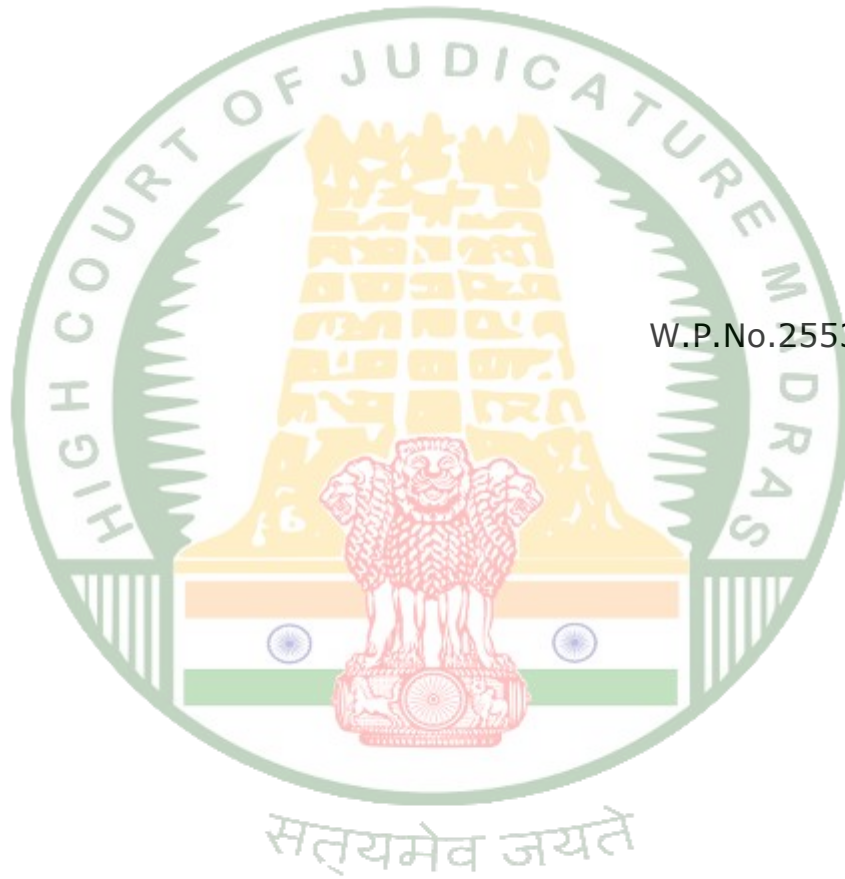
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M.DHANDAPANI,J.

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