

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.29441 of 2019

R.Rangarajan

.. Petitioner

Vs.

1.The Secretary to Government,
Government of Tamilnadu,
Revenue Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.

3.The District Collector,
Cuddalore District,
Cuddalore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to disburse to the Petitioner, the encashment of Earned Leave, GPF, FBF and consequential retirement and pensionary benefits within a limited time frame.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.R.S.Selvam
Government Advocate

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O R D E R

This Writ Petition is filed for a Writ of Mandamus, directing the respondents to disburse to the petitioner, the encashment of Earned Leave, GPF, FBF and consequential retirement and pensionary benefits within a limited time frame.

2.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the entire materials on record.

3.The case of the petitioner is that while he was working as Special Tahsildar (Land Acquisition) National Highways, Chidambaram, Cuddalore District, he was placed under suspension by the District Collector, Cuddalore, the third respondent herein, on the ground that a Criminal Case was registered by the District Crime Branch, Cuddalore on 11.01.2014. The third respondent by the proceedings bearing No.A.21/19149/2014 dated 30.09.2014, issued orders not permitting him to retire on 30.09.2014 AN and retained in service till the Criminal proceedings are concluded. The petitioner filed a Writ Petition in W.P.No.34536 of 2015 before this Court challenging the order of suspension and the order not permitting him to retire. This Court by the order dated 29.10.2015 permitted me to submit a representation in this regard to the District Collector, Cuddalore, the third respondent herein. Accordingly, he submitted a representation dated 30.11.2015 to the third respondent herein requesting to revoke the suspension and to disburse encashment of earned leave, GPF and SPF and also pensionary benefits by permitting him to retire. Thereafter, the third respondent by Proceedings No.Na.Ka.No.A2/29842/2013 dated 22.12.2015, rejected his request on the ground of pendency of the Criminal Case. On 26.04.2016, the petitioner submitted a representation to the third respondent to consider his claim and to disburse the earned leave, GPF and SPF and also pensionary benefits. Again on 12.05.2017, he submitted another representation and further on 10.06.2018, he submitted a reminder representation to the third respondent and however, till the date the same were not considered by the third respondent. For which, the petitioner has come out with the present Writ Petition.

4.The learned counsel for the petitioner would submit that though the petitioner is removed from service, he is entitled to receive the encashment of Earned Leave, GPF, FBF and consequential retirement and pensionary benefits. He would further submit that as per the decision rendered by the Division Bench of this Court in this aspect in W.A.No.1485 of 2018, the petitioner is entitled to above such benefits and prayed for allowing the Writ Petition.

5.Per contra, Mr.R.S.Selvam, learned Government Advocate appearing for the respondents would submit that serious allegations are pending against the petitioner and the petitioner was placed under suspension on 27.01.2014 and retained to service and he was not allowed to retire on 30.09.2014. The allegation against the petitioner is that the petitioner has been accused of involving in a serious scam along with two other officials during the year 2012-2013 of drawing salary in the name of fictitious persons, by which huge monetary

loss amounting to Rs.1,15,72,758/- has been caused to the Government and the said Criminal Case is pending. Accordingly, he prayed for dismissal of the Writ Petition.

6.Considering the facts and circumstances of the case, the relevant portion of the judgment in W.A.No.1485 of 2018 is extracted hereunder:

"...8. In this connection, it would be appropriate to refer to the decision passed by this Court in W.A.No.71 of 2017 dated 14.11.2017. In that case, due to certain irregularities in the allotment of plots, the respondent therein was kept under suspension. He has been denied all the terminal benefits. However, he was paid only subsistence allowance upto 30.06.2012 and subsequently, only provisional pension was paid. Thereafter, the authorities have sanctioned only the General Provident Fund. The request for sanction of Special Provident Fund and Encashment of Earned Leave / Private Affairs at his credit, were rejected. The learned counsel appearing for the respondent therein relied upon the decision of the Jharkhand High Court in 2007 (2) BLJR 2847 (Dr.Dudh Nath Pandey V. The State of Jharkhand), wherein it has been held that the Government has no power to withhold gratuity and pension during the pendency of the departmental proceeding or criminal proceeding. It has also been held that it does not give any power to withhold Leave Encashment at any stage either prior to the proceeding or after conclusion of the proceeding. Relying upon the said decision, this Court ordered to settle the General Provident Fund, Special Provident Fund and Encashment of Earned Leave / Private Affairs, within a period of two months."

7.As per the decision of this Court in W.A.No.1485 of 2018, cited supra, the petitioner is entitled to encashment of Earned Leave, GPF, FBF and consequential retirement and pensionary benefits and the respondents are directed to disburse the same to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. However, this order will not stand on the way of the department as well as the Criminal Court to take independent decision.

8.In the result, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS-)

// True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Government of Tamilnadu,
Revenue Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.

3.The District Collector,
Cuddalore District, Cuddalore.

+1cc to Government Pleader, SR.No.88240.

W.P.No.29441 of 2019

RR (CO)
CSR(09/12/2019)

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