



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.3821 of 2019

WEB COPY

E.Indhira Gandhi

... Petitioner

Vs.

1.The Director of Social Welfare,
Panagal Building, 2nd Floor,
Jennis Road, Chennai - 600 015.

2.The District Social Welfare Officer,
Collectorate Complex,
Dindigul District, Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the second respondent, ie., the District Social Welfare Officer, Dindigul, to take immediate action to disburse the Encashment of Leave Salary and Special Provident Fund of the petitioner's own contribution to the petitioner within a specified time frame that may be fixed by this Court.

For Petitioner

: Mr.S.Visvalingam

For Respondents

: Mrs.V.Anand,

Government Advocate

ORDER

This writ petition has been filed to direct the second respondent, to take immediate action to disburse the encashment of leave salary and special provident fund to the petitioner.

2.The petitioner seeking for encashment of leave salary and special provident fund, submitted a representation dated 05.01.2019 to the 2nd respondent, which is kept pending consideration by the 2nd respondent. Hence, praying for necessary orders, the petitioner is before this Court.

3.The learned Counsel for the petitioner submitted that the issue in this writ petition is squarely covered by the decision of this Court in WA No.207 dated 26.02.2016, wherein this Court has held that the departmental proceedings cannot be a bar for sanction of leave salary and the said judgment was also confirmed by the Hon'ble Apex Court in SLP(C)no.1622 of 2016, on 06.07.2017.



4.The relevant portions of the judgment in WA No.207 dated 26.02.2016, read thus:

"4. The learned Single Judge, considering all aspects of the matter, held that the petitioner was having earned leave and unearned leave on private affairs before initiation of the case and as such, he is entitled to encashment of earned leave and unearned leave on private affairs. The claim of gratuity was given up by the employee / writ petitioner on the ground that in the event of conviction and dismissal of service, the writ petitioner may not be entitled to get gratuity. The special provident fund was also not granted as the writ petitioner failed to establish any contribution made by him. While disposing of the writ petition, a direction was made to the appellants herein to disburse encashment of earned leave and encashment of unearned leave on private affairs. In respect of special provident fund, it was held that if any contribution was made by the writ petitioner, the same can be paid to the petitioner.

5. We do not find any error, illegality or infirmity in the order sought to be impugned in this writ appeal preferred by the Tamil Nadu Generation and Electricity Distribution Corporation Ltd., warranting interference. Thus, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition stands closed."

5.The learned Government Advocate appearing for the respondents has no serious objection to the above submissions.

6.In view of the above cited judgment and also considering the submissions made by the learned Counsel on either side, this Court directs the second respondent to disburse the leave salary and special provident fund to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

7.This writ petition is disposed of, on the above terms. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



To

1.The Director of Social Welfare,
Panagal Building, 2nd Floor,
Jennir Road, Chennai - 600 015.

2.The District Social Welfare Officer,
Collectorate Complex,
Dindigul District, Dindigul.

+1 cc to Mr.S.Visvalingam , Advocate SR.No.49882

+1 cc to The Special Government Pleader Sr.No.50683

DSK

ORDER MADE IN

WP (MD) No. 3821 of 2019

26.02.2019

KM/ (06.04.2019) 3P 5C