



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.02.2019

CORAM:

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

WP(MD)No.3918 of 2019

P.Veeranan

... Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai - 600 004.

2.The Deputy Inspector General of Police,
Tiruchirapalli Range, Tiruchirapalli.

3.The Superintendent of Police,
Pudukottai District, Pudukottai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the third respondent, ie., the Superintendent of Police, Pudukottai District, to take immediate action to disburse the Encashment of Leave Salary and payment of Special Provident Fund of his 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 third 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 06.01.2019 to the 3rd respondent, which is kept pending consideration by the 3rd respondent. Hence, praying for necessary orders, the petitioner is before this Court.

3.It is brought to the notice of this Court that after filing of this writ petition, the claim of the petitioner came to be rejected on 22.02.2019 in Na.Ka.No.G4/01914/2019. This Court is of the view that the same cannot be countenanced in the eye of law.

4.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.



5. 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."

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

7. In view of the above cited judgment and also considering the submissions made by the learned Counsel on either side, this Court directs the third 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.

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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Director General of Police,
Mylapore, Chennai - 600 004.

2.The Deputy Inspector General of Police,
Tiruchirapalli Range, Tiruchirapalli.

3.The Superintendent of Police,
Pudukottai District, Pudukottai.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-49884[F] dated
26/02/2019)

+1 CC to M/s.SPL GP (SR-50098[F] dated 27/02/2019)

DSK

ORDER MADE IN

WP (MD) No.3918 of 2019

26.02.2019

KM/ (05.04.2019) 3P 6C