



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.9865 of 2019

M. Abuthahir Mathani

... Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Thirumangalam Division,
Thirumangalam, Madurai District.

3.The Tahsildar,
Thiruparankundram Taluk,
Madurai District,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent i.e., the District Collector, Madurai to sanction the Special Provident Fund of the petitioner's Contribution and Encashment of Leave Salary which is settled by the Hon'ble Supreme Court within a time specified by this Court.

For Petitioner : Mr.S. Visvalingam

For Respondents : Mrs. J. Padmavathy Devi
Special Government Pleader

ORDER

Seeking a direction to the first respondent to disburse the Special Provident Fund and Encashment of Leave Salary, the petitioner has come up with this writ petition.

2.It is the case of the petitioner that he lastly served as Village Administrative Officer, Thiruparankundram Taluk, Madurai District and attained the age of superannuation on 31.05.2012. However, he was not allowed to retire from service, but was placed under suspension vide proceedings dated 31.05.2012 of the Revenue Divisional Officer, Madurai, due to pendency of the Vigilance Case registered against him. According to the petitioner, though he is not entitled to pension, DCRG and commutation of pension, but is entitled to Special Provident Fund and encashment of leave salary. When he made a representation seeking such claim, it was not considered by the respondents. Hence, this writ petition.



3.The learned Counsel for the petitioner submitted that the issue involved herein is squarely covered by the decision of this Court in W.A.No.207 of 2016, 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.16229 of 2016, dated 06.07.2017.

4.The relevant portions of the judgment in WA.No.207/2016 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 Special Government Pleader appearing for the respondents has no serious objection to the above submissions.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned Counsel on either side and also following the aforesaid judgment, 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.



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

Sd/-

Assistant Registrar(T & P)

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// True Copy //

Sub Assistant Registrar(CS)

trp

To

1. The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Thirumangalam Division,
Thirumangalam.

3.The Tahsildar,
Thiruparankundram Taluk,
Madurai District, Madurai.

+1CC TO MR.S.VISVALINGAM, Advocate Sr. No.62038

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 62443

W.P(MD)No.9865 of 2019
24.04.2019

NRK(CO)

TR (21.06.2019) 3P 6C