



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P (MD) No.14419 of 2016

AK.Chellamuthu

.. Petitioner

Vs.

1. The District Collector,
Dindigul District,
Dindigul.
2. The District Revenue Officer,
O/o.The District Revenue Officer,
Dindigul District.
3. The Revenue Divisional Officer,
Palani Taluk,
Dindigul District.
4. The Tahsildar,
Palani Taluk,
Dindigul District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 3 to provide the Gratuity Funds, Provident Funds and all other consequential terminal benefits to the petitioner and pass such further or other orders.

For Petitioner : Mr.Ashwin Rajasimman
for Mr.T.Lajapthi Roy

For Respondents : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

ORDER

The petitioner has come up with the present Writ Petition for a Mandamus, directing the respondents 1 to 3 to provide the Gratuity Funds, Provident Funds and all other consequential terminal benefits to the petitioner.

2.Mr.Aayiram K.Selvakumar, learned Additional Government



Pleader, takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, he was worked as Village Administrative Officer, Thalaisyuthu Village, Palani Taluk, Dindigul District. While he was working, he was arrested by the Vigilance and Anticorruption Wing, Dindigul on 20.04.2010 and a case was registered in Crime No.4 of 2010 under Section 7 of the Prevention of Corruption Act and the aforesaid criminal case is pending in trial and he was attained the age of superannuation on the afternoon of 31.10.2010. But, the respondents have not settled the gratuity funds, provident fund and all other consequential terminal benefits to the petitioner.

4. According to the learned counsel for the petitioner, the petitioner is entitled for gratuity, general provident fund, special provident fund and earned leave encashment benefits. Therefore, he made a representation, dated 18.06.2014, to the respondents, but so far no order has been passed. Hence, the present Writ Petition.

5. The learned Additional Government Pleader appearing for the respondents has submitted that the abovesaid case in Crime No.4 of 2010 registered under Section 7 of the Prevention of Corruption Act, is pending before the Chief Judicial Magistrate's Court, Dindigul. Therefore, the said amount has not been settled so far.

6. The learned counsel appearing for the petitioner has relied upon the following decisions:

(i) In W.A.No.207 of 2016 **[The Chairman cum Managing Director, Tamil Nadu Generation and Electricity Distribution Corporation Ltd., Tamil Nadu Electricity Board, Chennai-2 and Others v. P.K.Panchaksharam]**, dated 26.02.2016, this Court has held as follows:

"The instant intra-court appeal arises from the order dated 2nd June, 2015 made in W.P.No.15457 of 2015.

2. The writ petitioner, who is the respondent herein, filed the writ petition, seeking direction to the appellants herein to disburse his retirement benefits, such as gratuity, special provident fund, encashment of earned leave and unearned leave on private affairs.

3. The respondent herein working as Electrician in the Electricity Board was to retire on attaining the age of superannuation on 30th June, 2013. However, he was not permitted to do so on account of pendency of the criminal case under the provisions of the Prevention of Corruption



private

private

private

private



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".

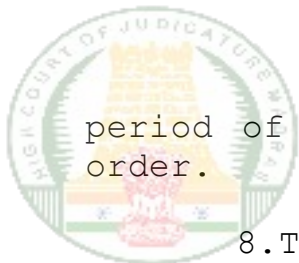
(iii) In 2019-1-Writ L.R.825 [The State of Tamil Nadu rep. by the Secretary to Government, Public Works Department, Chennai - 600 009 and others v. V.Mahalingam], this Court has held as follows:

"13.As explained in detail, we do not find anything contained in any of the statutory provisions relied by the Learned Special Government Pleader which have the effect of enabling the Government to withhold the encashment of the accumulated earned leave of a Government Servant when he attained the age of superannuation during his continuance in service pursuant to disciplinary proceedings or criminal prosecution pending against him at that point of time. Accordingly, we hold that in the absence of an enabling statutory provisions to that effect, an unfair advantage cannot be taken of a rather fortuitous situation by snatching the frugally accumulated earned leave of a Government Servant in a capricious manner, which remains unencashed at the time of his attaining the age of superannuation".

(iv) This Court had an occasion to consider the same issue with regard to retirement benefits in W.P.No.2805 of 2011, [S.Karunakaran v. The Registrar of Co-operative Societies (Housing), Chennai-600 020] dated 18.01.2017, and passed the following order:

"7.In the light of the above said order passed by this Court the respondent cannot withhold the Provident Fund and the encashment of the earned leave of the petitioner. Therefore, the impugned order dated 03.07.2010 is quashed, in so far as the (denial of retirement) benefits are concerned, and the respondents are directed to settle the provident fund and the encashment of earned leave to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order and liberty is granted to the petitioner to make a representation to the authorities concerned for any arrears of salary, if it is permissible under law".

7.Following the abovesaid Judgments, this Court directs the respondents 1 to 3 to consider the representation of the petitioner, dated 18.06.2014, and pass appropriate orders insofar as Special Provident Fund and Encashment of Earned Leave are concerned, in the light of the decisions cited supra, within a



period of six weeks from the date of receipt of a copy of this order.

8. The Writ Petition is disposed of, with the above direction. No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Dindigul District, Dindigul.
2. The District Revenue Officer,
O/o. The District Revenue Officer,
Dindigul District.
3. The Revenue Divisional Officer,
Palani Taluk, Dindigul District.
4. The Tahsildar,
Palani Taluk, Dindigul District.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-77845[F] dated 26/07/2019)

+1 CC to MR.T.LAJAPATHI ROY, Advocate (SR-78157[F] dated 29/07/2019)

**ORDER MADE IN
W.P(MD) No.14419 of 2016
25.07.2019**

SMN

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