



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.25925 of 2019

and

W.M.P (MD) No.22448 of 2019

S.Victor

... Petitioner

/vs./

1.The State of Tamil Nadu
rep., by its Secretary,
Agriculture Department,
Fort St George,
Chennai

2.The Chief Engineer (Agri Eng)
Agricultural Engineering Department,
Nandanam, Chennai-35.

3.The Assistant Executive Engineer (Agri Dep),
Thuckalay, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the first respondent to consider the petitioner's representation dated 16.11.2019 and dispose of the benefits of general provident fund, special provident fund, leave encashment of earned and leave credit held by him for the service rendered by him within a stipulated period.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader.

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner had earlier worked as Assistant Engineer, Konam at Nagercoil, who was dismissed from service on 04.11.2019. In view of the non-payment of encashment of his leave salary, General Provident Fund and Special Provident Fund of the petitioner's contribution, the present writ petition has been filed.

3.The issue with regard to the disbursement of the encashment of leave salary and special provident fund has already been settled in various decision and the judgment of the Division Bench in



W.A.No.207 of 2016 dated 26.02.2016 in the case of TANSIDCO vs P.K.Panchaksharam is one, wherein it was held as follows:-

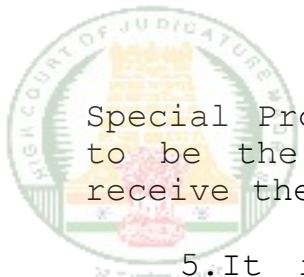
'2.The writ petitioner, who is the respondent herein, filed the writ petition, seeking direction to the appellants herein to disburse his retirement benefits, such as gratuity, special provident fund, encashment of earned leave and unearned leave on private affairs.

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 Act, 1988.

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.'

4.The aforesaid observations made in the decision are self explanatory. In view of these observations, it can be held that the earned leave salary and the petitioner's contribution towards



Special Provident Fund and General Provident Fund would be deemed to be the petitioner's property, which he would be entitled to receive the same.

5.It is also stated that the petitioner herein had made a representation to the second respondent herein on 16.11.2019 seeking for encashment of leave salary, General Provident Fund and special provident fund.

6.In the light of the above, there shall be a direction to the second respondent to disburse the encashment of leave salary, General Provident Fund and Special Provident Fund of the petitioner's contribution, by passing appropriate order in his representation dated 16.11.2019 and ensure that such disbursement is made at least within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

rmk

To:-

- 1.The Secretary,
Agriculture Department,
Fort St Geroge, Chennai
- 2.The Chief Engineer (Agri Eng)
Agricultural Engineering Department,
Nandanam, Chennai-35.
- 3.The Assistant Executive Engineer (Agri Dep),
Thuckalay, Kanyakumari District.

+1CC TO MR.K.P.S.PALANIVELRAJAN, Advocate Sr. No.103744

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 103824

W.P. (MD) No.25925 of 2019

05.12.2019

SML(CO)

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