



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No. 18607 of 2017

and W.M.P(MD) .No. 15328 of 2017

WEB COPY

P. Murugan

... Petitioner

-Vs-

1.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai.

2. The Chief Engineer (Distribution,
Tamilnadu Electricity Board,
Tirunelveli Region, Tirunelveli.

3. The Superintending Engineer,
Office of the Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of **Writ of Mandamus**, directing the respondents to disburse the Family Benefit Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave Salary and all the attendant and monetary benefits payable to the petitioner, based on his representation dated 06.05.2017 & 24.05.2017.

For Petitioner : Mr.S. Mahalingam

For Respondents : Mr.G. Kasinatha Durai, Standing Counsel
for TNEB

ORDER

The writ petition has been filed seeking for a direction to the respondents to disburse the Family Benefit Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave Salary and all the attendant and monetary benefits payable to the petitioner, based on his representation, dated 06.05.2017 & 24.05.2017.

2. The case of the writ petitioner is that initially he was appointed by the respondents as Assistant Draughtsman and posted at Vaigai Dam on 16.11.1998. Thereafter, he was promoted as Draughtsman and posted at the office of the Executive Engineer, Mettur Circle, Paramathi Melur, Karur District, on 31.03.1995 and

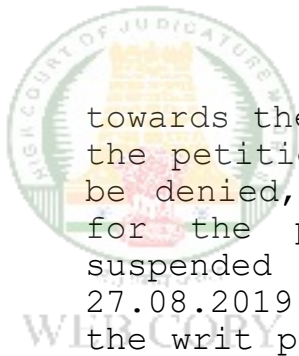


further promoted as Junior Engineer Grade. II on 04.02.2004 and finally, he was promoted to the post of Junior Engineer Grade-I on 31.12.2008. While he was working as Junior Engineer Grade-I at Kadaladi, the Inspector of Police, Vigilance and Anti Corruption, Ramanathapuram, registered a criminal case against the petitioner in Crime No.10 of 2009 for alleged offences under Sections 7 and 13(2) r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act. The petitioner was placed under suspension on 27.08.2009 by the third respondent. He has made representations on 30.09.2009 and 27.03.2010 to the third respondent to revoke the aforesaid suspension, but no action was taken. Hence, he has filed a writ petition in W.P.(MD) No.7562 of 2019 before this Court to quash the suspension order, dated 27.08.2009 and by order, dated 25.08.2010 this Court passed an interim stay of the suspension order. In view of the order of this Court, based on the representation of the petitioner, the second respondent has issued order of revocation in his proceedings in Memo No.17067/150/D.2/2009-20, dated 25.03.2011, reinstating the petitioner into service and posted as Junior Engineer Gr.I/Lines II Section at the Office of the Executive Engineer, Operations, Karaikudi, Sivagangai District. Thereafter, he was transferred to Watrap, Virudhunagar Electricity Distribution Circle from 09.12.2015 and he was continued in service till the date of attaining his superannuation i.e., on 30.04.2017.

3. The further case of writ petitioner is that the criminal case against the petitioner is pending more than 7 years and till date, the police officials as well as the respondents did not take any steps to dispose of the criminal case. Eventhough this Court set aside the petitioner's suspension order in W.P.(MD) No.7562 of 2010, dated 15.12.2016, two days prior to the date of petitioner's retirement, i.e., on 28.04.2017, the third respondent has issued proceedings in Memo No.06258/230/Adm-IV/A 1/2017-2 dated 28.04.2017, thereby, the petitioner was not permitted to retire from service w.e.f., 30.04.2017. In such circumstances, the petitioner has made a representation to the respondents on 06.05.2017 and 24.05.2017, for disbursement of the Family Benefit Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave salary and all the attendant and monetary benefits payable to the petitioner. Hence, the petitioner is before this Court.

4. Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents.

5. The learned counsel appearing for the petitioner fairly submitted that in the event of conviction and dismissal from service, the petitioner may not get gratuity in the facts and circumstances of the case, but he cannot be deprived of Family Benefit Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave salary, as these are his properties. As far as the Special Provident Fund is concerned, the learned counsel



towards the same. According to him, if there is any contribution by the petitioner towards Special Provident Fund, the same cannot also be denied, even if he is dismissed. The learned counsel appearing for the petitioner further submitted that the petitioner was suspended from service and he was under suspension between 27.08.2019 and 29.03.2011. Subsequently, a writ petition filed by the writ petitioner in W.P.(MD) No.7562 of 2010 was allowed and the order of suspension was set aside and hence, the petitioner is entitled to monetary benefits for that period also.

6. I am in agreement with the submissions made by the learned counsel for the petitioner. As rightly contended by the learned counsel for the petitioner, payment of Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private Affairs are concerned, the department cannot withhold the same, as those are the properties of the workman.

7. In view of the same, a direction is issued to the respondents to disburse the Encashment of Earned Leave and Encashment of Unearned Leave salary. As far as the Special Provident Fund is concerned, the respondents are directed to refund the same, if there is any contribution made by the petitioner. If petitioner has contributed towards other terminal benefits, the extent to the contribution made by the petitioner shall also be paid. The respondents are directed to disburse the aforesaid amount including the period from 27.08.2019 to 29.03.2011, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

ksa

+1 CC to Mr.G.KASINATHADURAI, Advocate (SR-96273[F] dated 06/11/2019)

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