

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3468 of 2020
and
W.M.P.No.4044 of 2020

K. Subbiah

... Petitioner

Vs.

1.The Additional Chief Secretary
to the Government of Tamil Nadu
Rural Development and
Panchayat Raj (E2) Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Rural Development
and Panchayat Raj (E2) Department,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The District Collector,
Development Section,
Coimbatore District,
Coimbatore - 641 018.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, directing the Director of Rural Development, Chennai, the second respondent herein to disburse (i) the provident fund stands to the credit of the petitioner (ii) special provident fund (iii) Encashment of Earned leave for 240 days. (iv) Encashment of unearned leave on private affairs for 90 days (Totally for 240+90 = 330 days) with interest at the rate of 18% per annum from the date of its due, till date of actual payment as has been orderd in similar cases by this Court and in the light of the circular issued by the second respondent in Na.Ka.No.6974/63/Pen.1 dated 29.10.2003 within a short date that may be fixed by this Court.

For Petitioner : Mr. K. Rajkumar

For Respondents: Mr. V. Prabhu,
Government Advocate.

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the second respondent to disburse the Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on private affairs that is due and payable to the petitioner.

2. The case of the petitioner is that he was working as Assistant Executive Engineer in the Rural Development Department at Coimbatore. The petitioner was placed under suspension and he was not permitted to retire from service on account of the pending disciplinary proceedings by virtue of the Government order dated 31.05.2018.

3. The grievance of the petitioner is that the disciplinary proceedings are still pending and none of the terminal benefits have been settled to the petitioner. The petitioner claims that irrespective of the result of the disciplinary proceedings, he is entitled for the Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave. In order to substantiate his claim, the petitioner relied upon the Division Bench judgment of this Court in W.A. (MD) No.105 of 2019 and cited another judgment of this Court in W.P.No.31922 of 2019 dated 14.11.2019.

4. Heard, Mr. K. Rajkumar, learned counsel for the petitioner and Mr. V. Prabhu, learned Government Advocate for the respondents.

5. The issue that has been raised in the writ petition is squarely covered in the above judgment. It is now well settled that the claims made by the petitioner is considered to be a property of the petitioner and he is entitled to receive the same as a matter of right under Article 300A of the Constitution of India. This is dehors the result of the disciplinary proceedings.

6. In view of the above, there shall be a direction to the second respondent to pass appropriate orders within a period of four weeks from the date of receipt of copy of this order and disburse the provident fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on private affairs to the petitioner.

7. This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

1.The Government of Tamil Nadu
The Additional Chief Secretary
Rural Development and
Panchayat Raj (E2) Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Rural Development
and Panchayat Raj (E2) Department,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The District Collector,
Development Section,
Coimbatore District,
Coimbatore - 641 018.

+1cc to Mr.K.Rajkumar, Advocate SR.11595
+1cc to the Government Pleader SR.12385

W.P.No.3468 of 2020

SPD(CO)
CB(12/03/2020)

सत्यमेव जयते

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