

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.02.2020
CORAM
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH
WP.No.3920 of 2020

N.Gunasekaran

.. Petitioner

- Vs -

1. The Joint Registrar,
Co-Operative Societies Erode Region,
Erode District.
2. The Deputy Registrar of Co-Operative Societies,
Erode,
Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondent to pass encashment of Earned Leave Salary and unearned leave on Private Affairs, Special Provident Fund pursuant to the representation dated 25.01.2020.

For Petitioner : Mr.S.Sairaman
For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

This writ petition has been filed for the issue of writ of Mandamus directing the respondents to pay the Provident Fund, Earned Leave encashment and the Unearned Leave encashment on Private Affairs, based on the representation made by the petitioner on 25.01.2020.

2. The case of the petitioner is that he was appointed as a Senior Inspector in the office of the respondents and he was due for retirement on 30.04.2016. The first respondent, by his proceedings dated 27.04.2016, passed an order of suspension and did not permit the petitioner to retire since a criminal case was pending against the petitioner.

3. The grievance of the petitioner is that the order of suspension is still pending and the petitioner has not been settled with any of the benefits. Therefore, the petitioner made a representation to the respondents on 25.01.2020 requesting them to settle the Special Provident Fund, Earned Leave and Unearned Leave encashment on Private Affairs. Since there was no response, the present writ petition has been filed before this Court.

4. Heard Mr.S.Sairaman, learned counsel appearing on behalf of the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents.

5. The issue raised by the petitioner is directly covered by the judgment of this Court in the case of State of Tamil Nadu Vs. V.Mahalingam reported in 2019 WLR 825. The petitioner, who has been kept under suspension pending disciplinary proceedings/criminal case, will be entitled for the benefit of Provident Fund, Encashment of Earned Leave etc., since it is considered to be the property of the employee. The petitioner has therefore, made a representation to the respondents on 25.01.2020 claiming for these benefits.

6. This writ petition is disposed of with a direction to the first respondent to consider the representation made by the petitioner on 25.01.2020 and pass appropriate orders in accordance with law and in line with the above judgment, within a period of six (6) weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the first respondent along with a copy of the representation dated 25.01.2020 and a copy of this order. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The Joint Registrar,
Co-Operative Societies Erode Region,
Erode District.

2. The Deputy Registrar of Co-Operative Societies,
Erode,
Erode District.

+1cc to Mr.S.Sairaman , Advocate SR.No. 13711

+1 cc to Spl Government Pleader co op Sr.No. 14198

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A.SK(24/02/2020)