



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.3927 of 2020

Chinna Gounden

... Petitioner

- Vs -

The Joint Registrar,
Co-Operative Societies,
Krishnagiri District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondent to pay encashment of earned leave salary and unearned leave on private affairs, special provident fund pursuant to the representation dated 27.01.2020.

For Petitioner : Mr.S.Sairaman

For Respondents: Mr.D.Venkatachalam
Additional Government Pleader

O R D E R

This writ petition has been filed for the issue of writ of Mandamus directing the respondent to pay Encashment of Earned Leave salary, Unearned Leave on Private Affairs, Special Provident Fund by considering the petitioner's representation dated 27.01.2020.

2. The case of the petitioner is that he was working as Senior Inspector (Selction Grade) at the office of the respondent-Society and his retirement fell due on 30.04.2012. He was holding the post of Special Officer of Veeramalai Primary Cooperative Societies as Additional Charge during the period from 25.05.2001 to 25.04.2004. A criminal case came to be registered against the petitioner and he was charge sheeted for the offences under Sections 408, 409, 465, 467, 477(A) & 470 IPC r/w 10(b) IPC. The petitioner filed a discharge petition under Section 239 of Cr.P.C, in C.C.No.83 of 2010 and the said petition was allowed and he was discharged from the charge sheet on 09.06.2017. As against the said order, CCIW Police filed a revision before the learned Principal Sessions Judge, Krishnagiri in Crl.R.C.No.11 of 2019. The said revision was



allowed on 03.07.2019 in favour of the prosecution and the petitioner challenged the said order by filing Crl.O.P.No.29395 of 2019 and the petitioner obtained an order of interim stay on 14.11.2019. Therefore, the petitioner made a representation to the respondent to disburse the encashment of leave salary and Special Provident Fund and interest there upon. Since the representation was not considered, the present writ petition has been filed before this Court.

3. Heard Mr.S.Sairaman, learned counsel appearing on behalf of the petitioner and Mr.D.Venkatachalam, learned Additional Government Pleader appearing on behalf of the respondent.

4. 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 fourth respondent on 27.01.2020 claiming for these benefits.

5. This writ petition is disposed of with a direction to the respondent to consider the representation made by the petitioner on 27.01.2020 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 respondent along with a copy of the representation dated 27.01.2020 and a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Joint Registrar,
Co-Operative Societies,
Krishnagiri District.

+lcc to Mr.S.Sairaman, Advocate Sr.13710

WP.No.3927 of 2020

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srg 19/03/2020