



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.2035 of 2020

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D.Kathirvel

... Petitioner

/vs./

1.The Commissioner of
Municipal Administration,
Ezhilagam, 6th Floor,
Chepauk,
Chennai - 5.

2.The Commissioner,
Trichirappalli City Corporation,
Tiruchy-1.

3.The Assistant Commissioner,
Ariyamangalam Zone,
Trichirappalli City Corporation,
Tiruchy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the 1st respondent ie., The Commissioner of Municipal Administration, Ezhilagam, Chepauk, Chennai to take immediate action to disburse the General Provident Fund Amount, Special Provident Fund and Encashment of Leave Salary along with the arrears of pay as per 5th and 6th pay commission and arrears of Selection Grade pay, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.A.L.Vijeydevraj
For R1 : Mr.M.Karuppasamy
Government Advocate

ORDER

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 Junior Engineer in the office of the Assistant Commissioner, Ariyamangalam Zone, Tiruchirappalli City Corporation, Tiruchy, who was suspended from service on 25.02.2005. In view of the non-payment of encashment of his leave salary, general provident fund and special provident fund along with the arrears of pay as per 5th and 6th pay commission



and arrears of Selection Grade pay of the petitioner's contribution, the present writ petition has been filed. It is also stated that the petitioner herein had already made a representation to the respondents herein on 29.11.2019 in this regard.

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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. Though the petitioner herein has sought for disbursement of monetary benefits other than encashment of leave salary, general provident fund and special provident fund, in view of the observations made in the above order, it can be held that the earned leave salary and the petitioner's contribution towards Special Provident Fund would be deemed to be the petitioner's property, which he would be entitled to receive the same.

5. In the light of the above, there shall be a direction to the respondents 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 29.11.2019 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.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To:-

The Commissioner of
Municipal Administration,
Ezhilagam, 6th Floor,
Chepauk, Chennai - 5.

+2 CC to M/s.A.L.VIJAY DEVARAJ, Advocate (SR-4511[F] dated
03/02/2020)

W.P. (MD) No.2035 of 2020
03.02.2020

GRL (CO)
TR (03.03.2020) 3P 4C