



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5474 of 2020

R.Sakunthala

... Petitioner

Vs.

1.The Secretary to the Government of Tamil Nadu,
Revenue Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Special Commissioner and Commissioner
of Revenue Administration,
Ezhilagam,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Office of the Collectorate Campus,
Karur District,
Karur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 2nd respondent herein to take immediate action for disbursement of the encashment of earned leave, unearned leave on private affairs and special provident fund of petitioner's contribution by considering the petitioner's representation dated 22.11.2019 within a stipulated time.

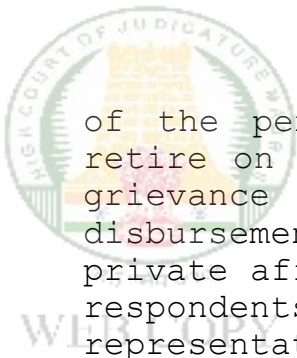
For petitioner
For respondents

: Mr.P.Mahendran
: Mr.M.Rajaraman,
Government Advocate

ORDER

By consent of the learned counsel appearing for both sides, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. The learned counsel for the petitioner submitted that while she was serving as Deputy Collector / District Manager, TASMAC Limited at Karur District in the year 2009, a trap had been made by Vigilance and Anticorruption Department and a criminal case was registered under Section 7 of the Prevention of Corruption Act against her, due to which she was suspended from service. In view



of the pendency of the criminal case, she was not permitted to retire on attaining the age of superannuation on 30.04.2013. The grievance of the petitioner is that though she is eligible to get disbursement of encashment of Earned Leave, Unearned Leave on private affairs and contribution made in Special Provident Fund, the respondents have not paid the same. Hence, she has submitted a representation dated 22.11.2019. Even thereafter, the respondents have not considered her claim. Hence, she has come up with this writ petition.

3. The learned Government Advocate appearing for the respondents submitted that the representation of the petitioner would be considered as early as possible.

4. The issue with regard to the disbursement of the encashment of Earned Leave, Unearned Leave and Special Provident Fund has already been settled in various decisions 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 the one, wherein it was held as follows:-

"2.The 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."

5. The above decision is squarely applicable to this case. As per the above decision, the petitioner is entitled to encashment of earned leave salary and her contribution towards Special Provident Fund. As it is submitted by the learned counsel for the petitioner that she has already made a representation dated 22.11.2019 with regard to disbursement of encashment of Earned Leave and Unearned Leave on private affairs, and her contribution towards special provident fund, this Court is of the view that the respondents may be directed to consider the said representation of the petitioner and to disburse the encashment of Earned Leave salary and her contribution towards Special Provident Fund.

6. In view of the above, the respondents are directed to consider the representation of the petitioner dated 22.11.2019 and disburse the encashment of Earned Leave and Unearned Leave on private affairs and her contribution towards Special Provident Fund, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar ()

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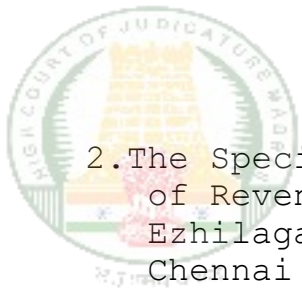
Sub Assistant Registrar(CS)

gcg

To

1. The Secretary,
Revenue Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Special Commissioner and Commissioner
of Revenue Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The District Collector,
Office of the Collectorate Campus,
Karur District,
Karur.

+1 CC to Mr.P.MAHENDRAN, Advocate (SR-11809[F] dated 16/03/2020)

+1 CC to SPL.GP (SR-12037[F] dated 17/03/2020)

Order made in
W.P. (MD) No.5474 of 2020
16.03.2020

VB(06.05.2020) 4P 6C