



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **18.03.2020**
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P(MD)No.5595 of 2020

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M.Abdul Nazir

.. Petitioner

Vs.

- 1.The Agricultural Production Commissioner &
Principal Secretary to the Government of Tamil Nadu,
Agriculture Department, Secretariat,
Chennai - 600 009.
- 2.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai, Nandanam,
Chennai - 600 035.
- 3.The Principal Accountant General (A & E),
361, Anna Salai, Teynampet,
Chennai - 600 018.
- 4.The Assistant Executive Engineer,
Agricultural Engineering Department,
Thirukkokarnam Post,
Pudukottai.
- 5.The Sub Treasury Officer,
Sub Treasury,
Pudukottai.

.. Respondents

PRAYER: This Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus, directing the 2nd respondent to disburse the Special Provident Fund and Encashment of Leave Salary in the light of the Judgment passed by the Hon'ble Madurai Division Bench of the Madras High Court dated 31.07.2019 in W.A(MD)No.105 of 2019 against W.P(MD)No.7761 of 2018 and the same was confirmed in W.P(MD)No.97 of 2020, dated 06.01.2020.

For Petitioner	: Mr.R.Gunaalan
For R1, R2, R4 & R5	: Mr.M.Murugan, Government Advocate.
For R3	: Mr.P.Gunasekaran

ORDER

The writ petition has been filed for a direction to the 2nd respondent to disburse the Special Provident Fund and Encashment of

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Leave Salary in the light of the Judgment passed by this Court dated 31.07.2019 in W.A(MD)No.105 of 2019, confirming the order passed in W.P(MD)No.7761 of 2018, dated 10.04.2018.

2.Mr.M.Murugan, learned Government Advocate takes notice for the respondents 1,2,4 and 5. Mr.P.Gunasekaran, learned counsel, takes notice for the 3rd respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner joined the service in the year 1983 as Assistant Engineer (Agricultural Engineering) at Pudukottai, Pudukottai District and later he was promoted as Assistant Executive Engineer (Agricultural Engineering). He was working for the past 34 years in the office of the 4th respondent. He attained the age of superannuation on 31.08.2017 and on 30.08.2017, he was suspended from service vide G.O(3D)No.211, Agriculture (AA8) Department, dated 30.08.2017 under Sub Rule (e) of Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, by the first respondent. The petitioner was not permitted to retire from service for the purpose of conducting departmental enquiry and as on date, he has been receiving the subsistence allowance alone. He has received the General Provident Fund. The grievance of the petitioner is that he is entitled to receive the Special Provident Fund and Encashment of Leave Salary in the light of the Judgment of this Court in W.P.No.16098 of 2015, dated 08.06.2015 and W.P(MD)No.7761 of 2018, dated 10.04.2018, which was confirmed in the Writ appeal in W.A(MD) No.105 of 2019 by holding that the General Provident Fund, Special Provident Fund and Encashment of Leave Salary cannot be withheld by the concerned Government authority even if the employee is dismissed from service. In view of the above, the petitioner made a representation dated 04.03.2020 to the respondents, which has not been considered till date. Hence, the petitioner has come up with the present Writ petition.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1,2,4 and 5 and the learned counsel appearing for the 3rd respondent.

5.This Court is of the view that the petitioner is standing in same footing as that of the petitioners in the above Writ petitions. It is submitted on the side of the petitioner that the petitioner has already received his General Provident Fund amount. Since the matter has already been settled by the Hon'ble Division Bench of this Court in W.A(MD)No.105 of 2019, the petitioner shall be entitled to claim the Special Provident Fund and Encashment of leave salary. Therefore, the second respondent is directed to disburse the encashment of leave salary as well as the Special Provident Fund amount, to the petitioner within a period of six (6) 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 (AS)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

1.The Agricultural Production Commissioner &
Principal Secretary to the Government of Tamil Nadu,
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Chennai - 600 009.

2.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai, Nandanam, Chennai - 600 035.

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4.The Assistant Executive Engineer,
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Thirukkokarnam Post,
Pudukottai.

5.The Sub Treasury Officer,
Sub Treasury,
Pudukottai.

+1 CC to M/s.R.GUNAALAN, Advocate (SR-12311[F] dated 18/03/2020)
+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-12424[F] dated
19/03/2020)

ORDER MADE IN
W.P(MD)No.5595 of 2020
18.03.2020
(2/2)

MK (26.05.2020) 3P 8C