



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5951 of 2020

N.Soundarapandian

... Petitioner

Vs.

1.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam,
Chennai -35.

2.The Executive Engineer,
Agricultural Engineering Department,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to disburse the leave salary and Special Provident Fund in the light of the judgment made in W.A.No.105 of 2019, dated 31.07.2019 on the file of this Court based on the representation dated 19.09.2019.

For petitioner

: Mr.V.P.Rajan

For respondents

: Mr.K.Mu.Muthu,
Additional Government Pleader

ORDER

By consent, 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 the petitioner was serving as the petitioner was appointed as Mechanic Grade II in the year 1979 and on the date of retirement ie., on 27.02.2014, he was placed under suspension and he was not permitted to retire from service. Though enquiry has been completed, till date no final order is passed. As per the decision of this Court in W.A.No105 of 2019 dated 31.07.2019, leave salary and special provident fund are the property of the employee and the same cannot be denied on the ground of pendency of disciplinary proceeding or criminal case. The petitioner has submitted a representation dated 19.09.2019 to the 2nd respondent



requesting to disburse leave salary and special provident fund, in the light of the decision in W.A.No.105 of 2019, but the same has not been considered by the 2nd respondent till date and hence, the petitioner has come up with this writ petition for the aforesaid prayer.

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3. The learned Additional Government Pleader 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 and Special Provident Fund has already been settled in various decisions, including in the case of TANSIDCO vs. P.K.Panchaksharam in W.A.No.207 of 2016 dated 26.02.2016, wherein a Division Bench of this Court has 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."

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5. The very same view was reiterated in the decision in W.A.No.105 of 2019, dated 31.07.2019. The above decisions are squarely applicable to this case. As per the above decision, the petitioner is entitled to encashment of earned leave salary and his contribution towards Special Provident Fund. As it is submitted by the learned counsel for the petitioner that he has already made a representation dated 19.09.2019 with regard to disbursement of encashment of Earned Leave and his 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 his contribution towards Special Provident Fund.

6. In view of the above, the respondents are directed to consider the representation of the petitioner dated 19.09.2019 and disburse the encashment of Earned Leave, Unearned Leave on private affairs and his 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 (AD I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gcb

To

1.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam,
Chennai -35.

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



2.The Executive Engineer,
Agricultural Engineering Department,
Virudhunagar,
Virudhunagar District.

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+1 CC to SPL.GP (SR-12851[F] dated 23/03/2020)

Order made in
W.P. (MD) No.5951 of 2020
23.03.2020

KM(27.05.2020) 4P 5C