



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) Nos.7776 & 7780 of 2020

and

W.M.P. (MD) No.7262 of 2020

WEB COPY

K.Boomi ... Petitioner in
W.P.(MD) No.7776 of 2020

M.R.Athimoolam ... Petitioner in
W.P.(MD) No.7780 of 2020

Vs.

1) The District Collector,
Virudhunagar District, Virudhunagar.

2) The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.

3) The Tahsildar,
Kariyapatti Taluk,
Virudhunagar District. ... Respondents in both W.P.'s

COMMON PRAYER : Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.A1/6810/2019, dated 06.11.2019 and quash the same as illegal and consequently direct respondents to disburse the Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave benefits, Gratuity and other entitled allowances and benefits within the time stipulated by this Court.

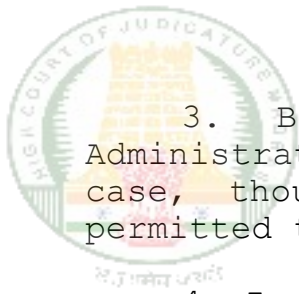
In both cases:

For Petitioner : Mr.N.Anandakumar
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

C O M M O N O R D E R

The prayer sought for in these writ petitions are for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.A1/6810/2019, dated 06.11.2019 and quash the same as illegal and consequently direct respondents to disburse the Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave benefits, Gratuity and other entitled allowances and benefits within the time stipulated by this Court.

2. Since the issue raised in both the writ petitions are one and the same, at the request of the learned counsel appearing on both sides, both the writ petitions are heard together and are being disposed of by this common order.



3. Both the petitioners had been working as Village Administrative Officer and due to Vigilance and Anti Corruption case, though they attained superannuation, they have not been permitted to retire from service.

4. In the circumstances, both the petitioners seem to have made a request to the respondents to provide the Special Provident Fund and Encashment of Earned and Unearned Leave, for which they are entitled to. However, the same has been rejected through the impugned order, dated 06.11.2019 in both the cases, passed separately, by stating that, in view of the pendency of the criminal case, the petitioners have not been permitted to retire from service and they are not entitled to get encashment of Earned and Unearned Leave except special Provident Fund. Aggrieved over the said order, the petitioners have moved these writ petitions with the aforesaid prayer.

5. Heard Mr.N.Anandakumar, learned counsel appearing for the petitioners and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents in both the writ petitions.

6. The learned Additional Government Pleader has fairly submitted that, the issue as to whether the petitioners are entitled to get the benefit of Earned and Unearned Leave Encashment, as well as special Provident Fund is concerned, it is no more res integra as a number of cases to that effect has been considered and orders have been passed. In this regard, the learned Additional Government Pleader drew the attention of this Court to the order recently passed in W.P.(MD) No.7834 of 2020 dated 22.07.2020, where I had an occasion to consider a similar issue and pass the following order:

"7. In this regard, the learned counsel for the petitioner submitted that a number of orders in this line have been passed by this Court and in this regard he relied upon a decision of this Court in W.P(MD)No.13376 of 2018 in the matter of A.Karunanithi Vs. the District Collector and two others, order dated 22.06.2020.

8. In that case, I had a occasion to consider the similar issue where I have passed the following order:-

"8. I have considered the said submissions made by both sides and have also perused the materials placed before this Court.

9. Since the issue raised in this Writ Petition has been decided in a number of cases and in the case stated supra, I had an occasion to consider a similar issue and pass an order as referred above. In view of the same, this Court is of the concerned view that, the petitioner is also entitled to get the said benefits of Provident Fund amount, Special Provident Fund amount and Encashment of Leave Salary. Therefore, in the circumstances of the case, this Court is inclined to pass the following orders:



"That the respondents are directed to disburse General Provident Fund, Special Provident Fund and Encashment of Leave Salary payable to the petitioner, by calculating the same within a period of four weeks from the date of receipt of a copy of this order."

10. With these directions, this writ petition is ordered as indicated above. However, there shall be no order as to costs."

9. By citing the aforesaid decision and other similar decisions, the learned counsel for the petitioner would submit that, if at all the petitioner is not entitled to get any other retiral benefits, atleast he would be eligible to get the Provident Fund, Special Provident Fund and encashment of leave salary, out of these three benefits, the petitioner had already received the Provident Fund amount but the Special Provident Fund as well as the encashment of leave salary, for which, the petitioner though entitled to, were not paid to the petitioner. Hence, in this regard, the petitioner has given a detailed representation to the respondents on 23.12.2019. However, the said representation has not been considered and no order has been passed and the above said two benefits so far are not given to the petitioner. Hence, the learned counsel for the petitioner would submit that a suitable direction to that effect may be given.

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12. Considering the said submissions made by the learned counsel appearing for both sides, after taking note of the earlier decisions of this Court, including the decision referred to above, and by considering the factual matrix of this case which is squarely covered by the above decision, this Court is inclined to dispose of this writ petition with the following directions:-

"that the respondents, especially, the first respondent is hereby directed to consider the representation of the petitioner, dated 23.12.2019 submitted through the second respondent, on merits and in accordance with law and pass orders there on, with regard to the sanctioning of the Special Provident Fund as well as the encashment of leave salary alone and suitable orders to that effect shall be passed within a period of eight weeks from the date of receipt of a copy of this order."

7. Since the issue as has been rightly pointed out by the learned Additional Government Pleader appearing for the respondents, it is no more *res integra*, this Court feels that, the petitioners are entitled to get the benefit of encashment of Earned and Unearned Leave as well as Special Provident Fund.



8. In that view of the matter, the impugned orders cannot be sustained and therefore, both the impugned orders, insofar as the rejection of Earned and Unearned Leave benefits, are quashed and in view of the same the following directions are given:-

"that the respondents, especially the second respondent, is hereby directed to consider the request of the petitioners, with regard to the entitlement of Encashment of Earned and Unearned Leave as well as Special Provident Fund and after calculating the same, the amount accruing on the said Head shall be paid to the petitioners within a period of eight weeks from the date of receipt of a copy of this order."

9. With these directions, both the Writ Petitions are ordered accordingly. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD)No.7262 of 2020 is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The District Collector,
Virudhunagar District, Virudhunagar.
- 2) The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.
- 3) The Tahsildar,
Kariyapatti Taluk, Virudhunagar District.

+1 CC to M/s.GP (SR-13886[F] dated 12/08/2020)

**Common Order made in
W.P. (MD) Nos.7776 & 7780 of 2020
Dated:07.08.2020**