



WEB COPY

W.P.(MD) No.11096 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.09.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.11096 of 2020

and

W.M.P.(MD) No.9718 of 2020

(Through Video conferencing)

M.Subramanian

...Petitioner

-Vs-

1.The Director of Rural Development and
Panchayat Raj,
O/o.the Director of Rural Development and
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 15.

2. The District Collector,
Madurai District,
Madurai.

...Respondents

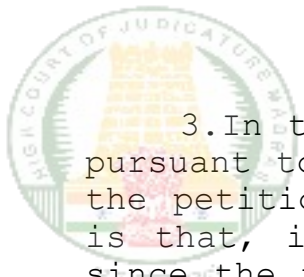
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the respondents to sanction and disburse the payment of the Encashment of Earned Leave, leave on private affairs and General provident fund of the petitioner along with an accrued interest thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Mohammed Imran for
M/s.Ajmal Associates
For Respondents : Mr.S.Dhayalan, G.A.

ORDER

The Prayer sought for in this writ petition is for a writ of Mandamus, to direct the respondents to sanction and disburse the payment of the Encashment of Earned Leave, leave on private affairs and General provident fund of the petitioner along with an accrued interest thereon within the period that may be stipulated by this Court.

2.The petitioner was working as Union Engineer at the respondent department and on superannuation, he had to retire on 31.03.2019. However, he was not permitted to retire from service.



3. In the meanwhile, charge memo also was issued on 18.03.2020, pursuant to which disciplinary proceedings is still pending against the petitioner. At this juncture, the grievance of the petitioner is that, in view of the pendency of the disciplinary proceedings, since the petitioner has not been permitted to retire and has been placed under suspension, he is getting only the subsistence allowance by way of not above the rate of pension payable to the petitioner alone. However, none of the retiral benefits have so far been disbursed to the petitioner.

4. In this regard, the learned counsel appearing for the petitioner would submit that, even if the petitioner ultimately found guilty and removed from service, he would be entitled to get the benefit of provident fund, special provident fund, encashment of leave salary and all these benefits can not be denied even to the removed employee.

5. When that being the position, since the benefits since has not been disbursed to the petitioner, the petitioner has given request to the respondent to disburse only those benefits. Since the said representation dated 03.07.2020 also has not been considered and such benefits have not so far been disbursed to the petitioner, the petitioner has approached this Court.

6. Heard the learned Government Advocate appearing for the respondents, who would submit that, whatever the entitlement of the petitioner during the pendency of the disciplinary proceedings as he was not permitted to retire, would be considered and accordingly, representation of the petitioner dated 03.07.2019 would be decided and whatever the benefits, for which he is entitled to alone would be disbursed to the petitioner within a time frame that may be stipulated by this Court.

7. I have considered the said submissions made by both the learned counsel appearing for the parties.

8. The issue raised in this writ petition is no more res-integra as number of orders in this nature have been passed by this Court. Recently, in W.P.(MD) No.10889 of 2019, I had an occasion to consider the same issue and passed the following order on 04.09.2020.

"12. As has been rightly pointed out by the learned counsel for the petitioner, the issue raised in this writ petition is already settled in a number of cases and some of the cases cited above, would make it abundantly clear that, the benefits like Earned Leave encashment, Provident Fund and Special Provident Fund are concerned, that could be liable to be disbursed for those, who are in suspension, even after superannuation, facing the disciplinary proceedings.



Therefore, the said benefit sought for by the petitioner could not have been rejected by the respondent and in that view of the matter, the impugned order of rejection, for the reasons stated above, is liable to be interfered with.

13. In the result, this Court is inclined to pass the following orders:-

(i) The impugned order passed by the respondent in his proceedings vide O.Mu. No.1944/A1/2020 dated 19-06-2020 is quashed; and

(ii) The matter is remitted back to the respondent for reconsideration. While reconsidering the same, based on the aforesaid legal position, the respondent shall consider the request of the petitioner for releasing the said benefits, namely Earned leave encashment as well as Special Provident fund amount payable to the petitioner and the same shall be paid to the petitioner within a period of six weeks from the date of receipt of a copy of this order."

9. In view of the above, this Court is inclined to issue the following order:

"The respondents are directed to consider the representation dated 03.07.2019 submitted by the petitioner for releasing the said benefits, namely Encashment of Earned Leave, leave on private affairs and General provident fund amount payable to the petitioner and the same shall be paid to the petitioner within a period of six weeks from the date of receipt of a copy of this order"

10. With the above direction, this writ petition is disposed of. No costs, Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Arul

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 Director of Rural Development and
Panchayat Raj,
O/o.the Director of Rural Development and
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 15.

2. The District Collector,
Madurai District,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR-16269.
+1 CC to the SPL GP SR-16329.

W.P. (MD) No.11096 of 2020
08.09.2020

VR(CO)
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