



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.09.2020**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE **R.SURESH KUMAR**

W.P. (MD)No.11833 of 2020

R.Padmanapan

... Petitioner

-Vs-

1. The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam, Chennai 35.
2. The Assistant Executive Engineer,
Agricultural Engineering Department,
Collectorate Complex, Virudhunagar District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to disburse the leave salary and special provident fund in the light of judgment made in W.A.No.1905 of 2019 dated 31.07.2019 on the file of this Court based on the representation dated 07.07.2020.

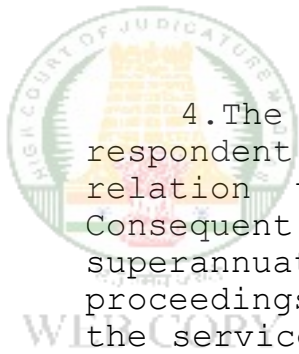
For Petitioner : Mr.V.P.Rajan
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

Prayer sought for herein is for a Writ of Mandamus, to direct the respondents to disburse the leave salary and special provident fund in the light of judgment made in W.A.No.1905 of 2019, dated 31.07.2019 on the file of this Court based on the representation, dated 07.07.2020.

2.Heard Mr.V.P.Rajan, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents.

3.By consent of both the learned counsel appearing for the parties, this writ petition is taken up for final disposal at the admission stage itself.



4.The petitioner was working as Junior Engineer at the respondent Department, while so, he was placed under suspension in relation to a disciplinary proceedings initiated against him. Consequent upon the same, when the petitioner reached the superannuation on 30.04.2020, he was not permitted to retire by the proceedings of the first respondent, dated 30.04.2020. Therefore, the service of the petitioner has been retained under F.R.56(1)(c). The disciplinary proceedings yet to be over. In that circumstances, since the petitioner is not entitled to get any other retiral benefits including the pension, gratuity etc, he has made a request to the respondents on 17.07.2020 to consider his request to disburse the surrender of earned leave salary as well as the special provident fund amount accrued on his amount, for which, the petitioner is entitled to. Since the said request has not been considered by the petitioner and it is pending so far with the first respondent, the petitioner has filed this writ petition with the aforesaid prayer.

5.The learned counsel appearing for the petitioner would submit that, the issue as to whether the employee like the petitioner would be entitled to get the encashment on surrender of earned leave salary as well as the special provident fund and provident fund has already been decided in a number of cases and in this regard, he has relied upon the Division Bench judgment of this Court made in W.A.No.1905 of 2019, dated 31.07.2019.

6.The learned Additional Government Pleader appearing for the respondents would submit that, if at all the petitioner would be entitled to get the benefits like encashment on surrender of earned leave salary as well as special provident fund amount accrued on his account, the same would be considered and after calculating the said amount, it would be disbursed within a time frame that may be fixed by this Court.

7.I have considered the said submission made by both sides.

8.As has been rightly pointed out by the learned counsel appearing for the petitioner, the issue as to whether the person like the petitioner, who has not been permitted to retire, because of the pendency of the disciplinary proceedings on the criminal case as the case may be, whether he would be entitled to get such benefits like provident fund, special provident fund and surrender and encashment of earned leave salary are concerned, has been decided in a number of cases. Therefore, the said issue is no longer *res-integra*. I have considered the similar issue in W.P(MD). No.7834 of 2020, dated 22.07.2020, where I have passed the following order:

".....

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."

9. In view of the aforesaid legal proposition, this Court is inclined to dispose of this writ petition with the following directions:-

'that the respondents are hereby directed to consider the request of the petitioner, dated 17.07.2020 and accordingly, calculate and disburse the surrender of earned leave salary accrued from the petitioner's accounts as well as the special provident fund amount and the needful, as indicated above, shall be undertaken by the respondents and the same shall be disbursed to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.'

10. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

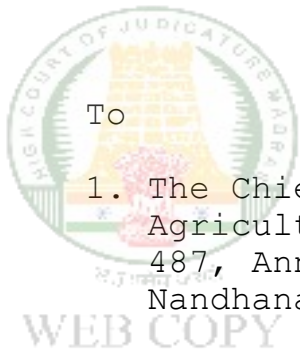
// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

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 Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam, Chennai 35.
2. The Assistant Executive Engineer,
Agricultural Engineering Department,
Collectorate Complex, Virudhunagar District.

+1 CC to the SPL GP (SR-17417[F] dated 18/09/2020)

W.P. (MD) No. 11869 of 2020
16.09.2020

CK(CO)
CS(06.11.2020) 4P 4C