



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.13603 of 2019

WEB COPY

M.Jothilingam

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Sivagangai.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the first respondent ie., the Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai to pass appropriate orders on the petitioner's representation dated 17.08.2015 regarding payment of Earned and Unearned Leave Salary deducting a sum of Rs.20,147/- as mentioned in the proceedings dated 27.11.2014 of the Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : No Appearance

ORDER

The petitioner's grievance is that though he was allowed to retire on 30.11.2014, his Earned and Unearned Leave Salary has not been paid and therefore, he sought for issuance of a Writ of Mandamus.

2. There is no representation on the side of the respondents.

3. This Court in identical writ petition, has directed the concerned authorities to disburse the encashment of leave salary and Special Provident Fund by relying upon a Division Bench decision in **W.A.No.207 of 2016 dated 26.02.2016** in the case of **TANGEDCO vs. P.K.Panchaksharam**, wherein it was held as follows:

'2.The writ 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.

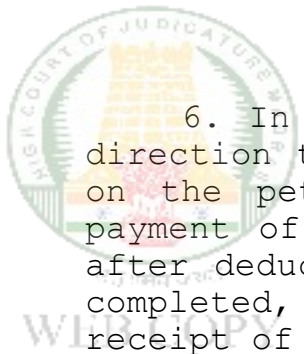
3.The respondent herein working as Electrician in the Electricity Board was to retire on attaining the age of superannuation on 30th June, 2013. However, he was not permitted to do so on account of pendency of the criminal case under the provisions of the Prevention of Corruption Act, 1988.

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.'

4. While that being so, the petitioner would be entitled for disbursement of Earned and Unearned Leave salary. In this background, the petitioner herein has now sought for a prayer to deduct a sum of Rs.20,147/-, which was raised during the audit objections and which requires to be recovered from the petitioner.

5. The learned counsel for the petitioner would submit that the petitioner has no objection if the said sum of Rs.20,147/- is adjusted, from out of the Earned and Unearned Leave Salary payable to the petitioner.



6. In the light of the representations made, there shall be a direction to the first respondent herein to pass appropriate orders on the petitioner's representation dated 17.08.2015, seeking for payment of Earned and Unearned Leave salary and disburse the same, after deducting a sum of Rs.20,147/-. The entire process shall be completed, at least, within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No Costs.

Sd/

Assistant Registrar(Records)

/True copy/

/02/2020

Sub Assistant Registrar

pm

To:

The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

+1 cc Mr. S.VISWALINGAM ,Advocate, SR.No. 5500

Order made in
W.P. (MD)No.13603 of 2019
10.02.2020

KK/SAR/20.02.2020/3P-3C