



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.15305 of 2019

S.Pavanasam

... Petitioner

/vs./

1.The Secretary to Government,
Public Works Department,
Secretariat,
Chennai-600 009.

2.The Engineer-in-Chief, (Water Resource Organization)
and Chief Engineer (General),
Public Works Department,
Chepauk, Chennai-600 005.

3.The Executive Engineer,
Public Works Department,
(Water Resource Organization),
Special Project Division,
Tirunelveli, Tirunelveli District.

4.The Assistant Executive Engineer,
Project Planning and Design,
Sub Division No.II,
Tirunelveli,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus, calling for the records of the second respondent i.e., the Engineer-in-chief, (Water Resource Organization) and Chief Engineer (General), Chennai, in his letter No.S1(1)/1193/2019 dated 11.04.2019 communicated in endorsement made in மே.கு.எண்.5/கோ.5/2019 நாள்.24.05.2019 by the Assistant Executive Engineer, Public Works Department, Project Planning and Design, Sub Division-II, Tirunelveli and quash the same and consequently direct the first respondent i.e., the Secretary to Government, Public Works Department, Chennai to disburse the Encashment of Leave Salary and Special Provident Fund of the petitioner within a specified time frame that may be fixed by this Court.



For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader.

O R D E R

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The petitioner had earlier worked as Junior Engineer (Public Works Department), Nambiyar Reservoir Project @ Valliyur, Tirunelveli District, who was suspended from service and he was not allowed to retire from service on the date of his superannuation i.e., 31.01.2000. Due to that, he was not paid the encashment of his leave salary and Special Provident Fund. Therefore, the petitioner has made a representation to the respondents on 11.04.2019 in this regard and the same was rejected on the ground that the criminal case is pending against him vide No.S1(1)/1193/2019 dated 11.04.2019 communicated in endorsement made in **மே.கு.எண்.5/கோ.5/2019** dated 24.05.2019. Challenging the same, the present writ petition has been filed.

2.The issue with regard to the disbursement of the encashment of leave salary and special provident fund has already been settled in various decision and the judgment of the Division Bench in W.A.No.207 of 2016 dated 26.02.2016 in the case of **TANSIDCO vs P.K.Panchaksharam** is one, 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.'

3.The aforesaid observations made in the decision are self explanatory. In view of these observations, it can be held that the earned leave salary and the petitioner's contribution towards Special Provident Fund would be deemed to be the petitioner's property, which he would be entitled to receive the same.

4. For all the forgoing reasons, the impugned order of the second respondent in letter No.S1(1)/1193/2019 dated 11.04.2019 communicated in endorsement made in மே.கு.எண்.5/கோ.5/2019 dated 24.05.2019 by the fourth respondent are set aside. Consequently, the petitioner is granted liberty to make a fresh representation, enclosing the copy of this order, seeking to disburse the encashment of leave salary and Special Provident Fund and on receipt of the such representation, the respondents herein shall positively disburse the encashment of leave salary and Special Provident Fund and ensure that such disbursement is made at least within a period of eight weeks from the date of receipt of fresh representation along with this copy of this order.

5.With the above directions, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To:-

1.The Secretary to Government,
Public Works Department,
Secretariat,
Chennai-600 009.

2.The Engineer-in-Chief, (Water Resource Organization)
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+1 CC to M/s.SPL GP (SR-2814[F] dated 24/01/2020)

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-2654[F] dated 23/01/2020)

W.P. (MD) No.15305 of 2019
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