



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.12904 of 2020

WEB COPY

(Through Video Conferencing)

M.Mariyappan

... Petitioner

Vs.

The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam,
Chennai - 35.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to disburse the leave salary and special provident fund in the light of judgment made in W.A.No.105 of 2019 dated 31.07.2019 on the file of this Court based on the representation dated 10.03.2020 preferred by the petitioner.

For Petitioner

:Mr.V.P.Rajan

For Respondents

:M/s.J.Padmavathi Devi, Spl. G.P.

ORDER

The prayer sought for in this writ petition is for a writ of mandamus, directing the respondent to disburse the leave salary and special provident fund in the light of judgment made in W.A.(MD) No.105 of 2019 dated 31.07.2019 on the file of this Court based on the representation dated 10.03.2020 preferred by the petitioner.

2.The petitioner was working as Junior Engineer (AE) at Thiruvannamalai in the respondent department and he was attaining the age of superannuation on 31.05.2019. However, few days prior to his superannuation, the petitioner was placed under suspension by order dated 28.05.2019, pursuant to which, on 31.05.2019, by the order of the respondent, he was not permitted to retire and his service was retained under FR 56(1)(c). Accordingly, the petitioner has not been permitted to retire. Therefore, he is not able to get any retiral benefits.

3.In this context, it is the grievance of the petitioner that, though he has not been permitted to retire from service, as per extant provisions of law i.e., relevant service rules and also based on the settled legal position in this regard, the petitioner would be entitled to get earned and unearned leave surrender salary as well as special provident fund, provident fund. In order to get the



benefits, the petitioner on 10.03.2020 has given representation to the respondent and since the same has not been considered, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner would submit that, the issue raised in this writ petition has already been decided in number of cases, where, a Division Bench of this Court, by order dated 31.07.2019 in W.A.(MD) No.105 of 2019 has passed a detailed order, where, it has been held that even a suspended employee or an employee who has not been permitted to retire or even a dismissed employee would entitle to get surrender leave salary, provident fund amount. Therefore, the said relief alone since has been sought for by the petitioner through the representation dated 10.03.2020, the respondent cannot have any impediment to consider the same. Accordingly, a direction may be given to the respondent to consider the said representation on merits within a time frame.

5. Heard the learned Special Government Pleader appearing for the respondent, who would submit that, the said request of the petitioner through the representation dated 10.03.2020 would be considered on merits and in accordance with law and accordingly, orders would be passed with regard to the entitlement of the petitioner's benefits like surrender of earned leave and unearned leave and also the special provident fund etc.

6. Having regard to the said submissions made by both sides and having taken note of the factual matrix of this case, this Court is inclined to pass the following order:

"Since the issue raised in this writ petition has been settled in number of cases, where the persons, like the petitioner would be entitled to get benefits as claimed through the representation dated 10.03.2020, there shall be a direction to the respondent to consider the said representation on merits and in accordance with law and accordingly, decide the disbursement of the said benefits payable to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order".

7. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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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

The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandhanam,
Chennai - 35.

+1cc to SPL GP SR.No.18493

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