



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.15484 of 2019

R.Chandrasekaran ... 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 Assistant Executive Engineer,
(Water Resource Organization),
Aruppukottai Sub Division,
Aruppukottai,
Virudhunagar District.

... Respondents

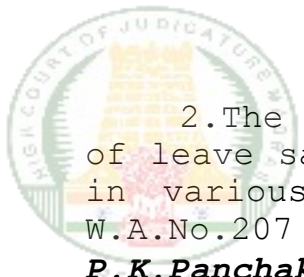
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the first respondent i.e., the Secretary to Government, Public Works Department, Chennai to take immediate action to disburse the encashment of leave salary and Special Provident Fund of the petitioner's contribution 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

The petitioner had earlier worked as Junior Engineer (Public Works Department), Nambiyar Reservoir Project @ Valliyur, Tirunelveli District, who was suspended from service on 31.05.2003. In view of the non-payment of encashment of his leave salary and Special Provident Fund of the petitioner's contribution, 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.It is also stated that the petitioner herein had made a representation to the respondents herein on 03.01.2019 seeking for encashment of leave salary and special provident fund.

5.In the light of the above, there shall be a direction to the first respondent to disburse the encashment of leave salary and special provident fund of the petitioner's contribution, by passing appropriate order in his representation dated 03.01.2019 and ensure that such disbursement is made at least within a period of eight weeks from the date of receipt of a copy of this order.

6.With the above direction, this Writ Petition stands allowed.
No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cp

To:-

- 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 Assistant Executive Engineer,
(Water Resource Organization),
Aruppukottai Sub Division,
Aruppukottai, Virudhunagar District.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-2655[F] dated 23/01/2020)

+1 CC to M/s.SPL.GP (SR-3128[F] dated 27/01/2020)

W.P. (MD) No.15484 of 2019

23.01.2020

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