



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.01.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No. 27285 of 2019

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V.Dhasaratharajan

... Petitioner

/vs./

The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanathapuram.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent i.e., the Deputy Inspector General of Police, Ramanathapuram Range, relating to his impugned Endt.C.No.B1/8059/2007, dated 05.12.2019 and quash the same and consequently direct the respondent ie., the Deputy Inspector General of Police, Ramanathapuram Range 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 Respondent : Mr.R.Sethuraman

Special Government Pleader

ORDER

The petitioner had earlier worked as Inspector of Police under the control of DIG of Police, Ramanathapuram Range, Ramanathapuram, who was suspended from service and he was not allowed to retire from service on the date of his superannuation i.e., 30.06.2009. 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 respondent on 26.08.2019 in this regard and the same was rejected on the ground that the criminal case is pending against him vide impugned Endt.C.No.B1/8059/2007, dated 05.12.2019. Challenging the same, the present writ petition has been filed.

3.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:-



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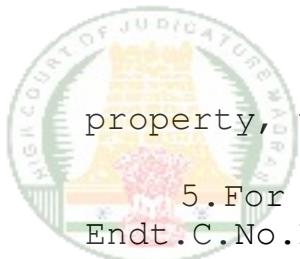
'2.The writ petitioner, who is the respondent herein, filed the writ petition, seeking direction to the appellants herein to disburse his retirement benefits, such as gratuity, special provident fund, encashment of earned leave and unearned leave on private affairs.

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.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.

5. For all the forgoing reasons, the impugned order in Endt.C.No.B1/8059/2007, dated 05.12.2019 is set aside. Consequently, the petitioner is granted liberty to make a 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 respondent herein shall positively disburse the eligible leave salary 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 along with representation

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

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sjj

To

The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanathapuram.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-2194[F] dated 21/01/2020

Order made in
W.P. (MD) No. 27285 of 2019

Dated:
21.01.2020

kg (CO)
TR (12.02.2020) 3P 3C