



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.2280 of 2017

N.Mohanadoss

... Petitioner

/vs./

1.The Registrar Co-operative Societies,
No.170, E.V.R.Periyar Salai,
Kilpauk, Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,
Thanjavur Region,
Thanjavur.

... Respondents

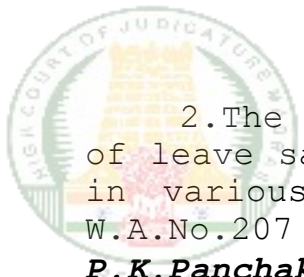
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus, calling for the records of the second respondent i.e., the Joint Registrar of Co-operative Societies, Thanjavur Region, Thanjavur, relating to his letter Na.Ka.No.5503/2016 Ka(1) dated 23.01.2017 and quash the same and consequently direct the second respondent to make payment of the encashment of the leave salary at the credit of the petitioner on the date of superannuation 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 Senior Inspector in the office of the Joint Registrar of Co-operative Societies, Thanjavur, who was suspended from service and he was not allowed to retire from service on the date of his superannuation i.e., 30.0.2013. 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 26.12.2016 in this regard and the same was rejected on the ground that the criminal case is pending against him vide letter Na.Ka.No.5503/2016 Ka(1) dated 23.01.2017. 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.

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4. For all the forgoing reasons, the impugned order in Na.Ka.No.5503/2016 Ka(1) dated 23.01.2017 is 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)

cp

To:-

1.The Registrar Co-operative Societies,
No.170, E.V.R.Periyar Salai,
Kilpauk, Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,
Thanjavur Region,
Thanjavur.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-2653[F] dated 23/01/2020)

+1 CC to M/s.SPL GP (SR-2885[F] dated 24/01/2020)

W.P. (MD) No.2280 of 2017

23.01.2020

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