

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6634 of 2021
and
W.M.P.No.7344 of 2021
(Heard through VC)

C.Balasubramanian .. Petitioner

-vs-

The Assistant Director of Survey
and Land Records,
Collectorate Complex,
Tiruvallur, Tiruvallur District. .. Respondent

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondent to disburse the Gratuity, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on Private Affairs to the petitioner.

For Petitioner : Mr.C.Prakasam
For Respondent : Mrs.P.Rajalakshmi
Additional Government Pleader

O R D E R

The writ petition has been filed seeking a direction to the respondent to disburse the Gratuity, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on Private Affairs to the petitioner.

2. Mrs.P.Rajalakshmi, learned Additional Government Pleader takes notice on behalf of the respondent.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, while working as Senior Draftsman in Tiruttani Taluk, a Criminal case has been registered against the petitioner by the Vigilance and Anti Corruption Department. Subsequently, he was placed under suspension with effect from 17.11.2011. Due to the pendency of the criminal case, he was not allowed to retire from service

vide proceedings dated 27.07.2016 and the retirement benefits like Gratuity, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on Private Affairs were not disbursed to him. It is pointed out that in the case of one R.Vasudevan, who is one of the accused in the Vigilance and Anti-corruption cases and dismissed from service, his retirement benefits were disbursed by the respondent. Hence, the petitioner has made several representations, the last such representation was on 01.03.2021, requesting to disburse his retirement benefits. Till now no order has been passed on his representation. Hence, this petition.

5. The learned counsel appearing for the petitioner submitted that it would suffice, if the representation made by the petitioner is directed to be considered and disposed of by the respondent on merits.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondent herein to consider the representation of the petitioner dated 01.03.2021, if not already disposed of and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 01.03.2021 and this order, to the respondent forthwith;

v) The respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no

need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

rsi

To

The Assistant Director of Survey
and Land Records,
Collectorate Complex,
Tiruvallur, Tiruvallur District.

+lcc to Government Pleader SR.No.17344

W.P.No.6634 of 2021

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GMY(12/07/2021)

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