



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.405 of 2021

WEB COPY

H.Subair

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
N.P.K.R.R.Maligai,
Chennai 600 002.
- 2.The Chief Engineer (Personal),
TANGEDCO, No.144, Anna Salai,
N.P.K.R.R. Maligai,
Chennai 600 002.
- 3.The Superintending Engineer,
Madurai Electricity Distribution Circle /Metro,
TANGEDCO, K.Pudur,
Madurai District 625 007.
- 4.The Executive Engineer (Metro),
Madurai North Division,
Madurai Electricity Distribution Circle,
TANGEDCO, K.Pudur,
Madurai District 625 007.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 3 and 4 to provide encashment of earned leave, unearned leave and family benefit fund and special provident fund on private affairs to the petitioner, in the light of the order in W.A.No.207 of 2016, dated 26.02.2016 (Chairman TNEB vs. P.K.Panchaksharam) and W.A.No.2767 of 2018, dated 17.12.2018 (The Superintending Engineer, TNEB vs. T.Datchinamurthy), within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.T.Sakthi Kumaran
Standing counsel



O R D E R

This writ petition has been filed for a direction to the respondents 3 and 4 to provide encashment of earned leave, unearned leave and family benefit fund and special provident fund on private affairs to the petitioner, in the light of the order in W.A.No.207 of 2016, dated 26.02.2016 (Chairman TNEB vs. P.K.Panchaksharam) and W.A.No.2767 of 2018, dated 17.12.2018 (The Superintending Engineer, TNEB vs. T.Datchinamurthy), within the time stipulated by this Court.

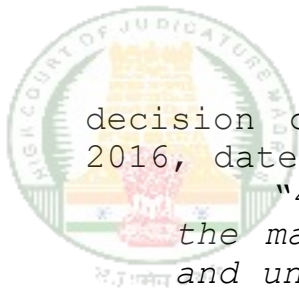
2. By consent of both parties, the writ petition is taken up for final disposal.

3. The case of the petitioner is that on 26.11.1987, he was joined as a Helper in the Tamil Nadu Electricity Board services at Anna Electrical Circle, Ammayanayakanur, Dindigul District. Subsequently, he was promoted as Foreman Grade-I at TANGEDCO (Metro), Melamadai, Gomathipuram, Madurai. On 02.08.2013, he was suspended from service on the ground that he demanded a sum of Rs.1,400/- as bribe for providing new electricity connection and a criminal case was also registered against him in Crime No.19 of 2014. Thereafter, the Special Court, Madurai has convicted the petitioner on 17.09.2020 in S.C.No.19 of 2014. Aggrieved by the same, he preferred an appeal before this Court in Crl.A.No.294 of 2020 and the same is still pending. In the mean while, the petitioner has reached the superannuation on 30.04.2015. But, till date the retirement benefits have not been given to him. Hence, he made a detailed representation to the respondents on 21.12.2020, requesting them to provide earned leave and unearned leave to him. However, the same was not considered so far and hence, the petitioner has approached this Court by filing this writ petition.

4. The learned counsel appearing for the petitioner would submit that the very same issue was considered by this Court in W.P.No.31356 of 2019, following the decision of the Division Bench of this Court in W.A.No.207 of 2016, dated 26.02.2016. Hence, this Court may pass an order in terms of the order passed by this Court.

5. The learned Standing counsel appearing for the respondents would submit that though the decision of this Court is not disputed, for reviewing the earlier decision, the respondent therein filed a Writ Appeal before the Principal Seat. However, no interim order was granted.

6. Considering the facts and circumstances of the case, the issue involved in the present writ petition is no longer res integra and on the earlier occasion, this Court has followed the



decision of the Division Bench of this Court in W.A.No.207 of 2016, dated 26.02.2016, wherein it is stated as follows:

"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."

7. A perusal of the order of Division Bench of this Court, which was not interfered with by the Apex Court, would show that the petitioner is entitled to get the disbursement of encashment of earned leave and unearned leave on private affairs and the special provident fund, if any contribution was paid by the petitioner towards the said fund.

8. Accordingly, the respondents 3 and 4 are directed to consider the claim of the petitioner to disburse the encashment of earned leave, unearned leave on private affairs and in respect of the family benefits fund and special provident fund, if the petitioner has made any contribution, the same shall be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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+1 CC to Mr.T.SAKTHI KUMARAN, Advocate (SR-836[F] dated
11/01/2021)

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