



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10810 of 2021

R.Mahendran

... Petitioner

vs.

1.The Joint Commissioner (State Tax)
(intelligence)
O/o. The Joint Commissioner (State Tax)
Intelligence, CT Complex,
Dr.Thangaraj Road,
Thallakulam, Madurai District - 625 020.

2.The Pay and Accounts Officer,
Pay and Accounts Office,
TPK Road, Periyar, Madurai Main,
Madurai District - 625 001.

... Respondents

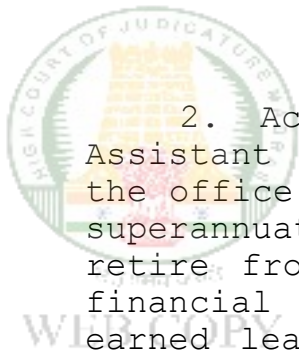
PRAYER:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Na.Ka.No.A4/2671/2019, dated 15.06.2021 on the file of the respondent No.1 and quash the same as illegal and consequently to direct the respondents to provide encashment of earned leave, unearned leave on private affairs and special provident fund with interest to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.S.Louis
For Respondents : Mr.P.Subbaraj,
Government Advocate.

ORDER

The petitioner has come up with the Writ Petition to quash the impugned order in Na.Ka.No.A4/2671/2019, dated 15.06.202,1 on the file of the respondent No.1, as illegal and consequently, direct the respondents to provide encashment of earned leave, unearned leave on private affairs and special provident fund with interest to the petitioner within the time stipulated by this Court.



2. According to the petitioner, lastly, he was served as Assistant Commissioner/Personal Assistant to Joint Commissioner at the office of the Joint Commissioner (Intelligence), Madurai and his superannuation date was 29.02.2020. However, he was not allowed to retire from service and he was placed under suspension. Due to financial constraints in his family, he requested for payment of earned leave and other monetary benefits. The proposal was also forwarded to the second respondent. However, the first respondent, by the impugned order dated 15.06.2021, rejected the request of the petitioner, informing that the proposal for payment of earned leave was returned by the second respondent, on the ground that charges are pending against him. Hence, the petitioner has come up with the present Writ Petition for the relief stated supra.

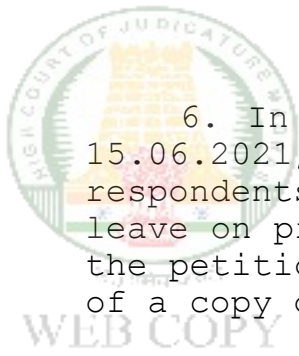
3. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents and perused the materials available on record.

4. Insofar as getting the benefits of encashment of Leave Salary and Provident Fund is concerned, number of judgments have been passed by this Court and the learned counsel has relied upon the order of this Court made in W.P.(MD)No.4975 of 2018 dated 08.03.2018 [T.S.Sooriyanarayanamoorthy Vs. The District Collector, Madurai and others], wherein a learned Judge of this Court has held as follows:

"5.This Court has held on more than one occasion, these benefits could not be denied to the person, even if he is ultimately dismissed from service. Hence, a direction is issued to the first respondent to consider the petitioner's representation dated 05.02.2018 regarding the disbursement of general provident fund, special provident fund and earned leave encashment and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order."

5. Following the said order, this Court has considered a similar issue in W.P.(MD)No.7174 of 2018 [S.Rosalin Malini Vs. The District Revenue Officer, Trichy and others] and passed an order dated 03.04.2018. The relevant portion of the said order would run thus:

"8.The respondents shall consider the request of the petitioner dated 07.01.2018 with regard to the sanction and disbursement of General Provident Fund, Special Provident Fund as well as the Encashment of Earned Leave of the petitioner and pass orders thereon, on merits and in accordance with law, especially, in the light of the aforesaid judgments cited herein, within a period of 6 weeks from the date of receipt of a copy of this order."



6. In view of the above, the order of first respondent, dated 15.06.2021, is set aside and this Writ Petition is allowed. The respondents are to disburse encashment of earned leave, unearned leave on private affairs and special provident fund with interest to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Joint Commissioner (State Tax)
(intelligence)
O/o. The Joint Commissioner (State Tax)
Intelligence, CT Complex,
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- 2.The Pay and Accounts Officer,
Pay and Accounts Office,
TPK Road, Periyar, Madurai Main,
Madurai District - 625 001.

+1 CC to M/s.SPL GP (SR-20881[F] dated 01/07/2021)

+1 CC to M/s.S.LOUIS, Advocate (SR-21084[F] dated 02/07/2021)

W.P(MD)No.10810 of 2021

30.06.2021

SE (CO)

LR (22.07.2021) 3P 5C