



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.[MD]No.10746 of 2020

and

W.M.P[MD]No.9467 of 2020

P.S.Kalaiselvan

... Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Madurai - 625 020.

2.The Block Development Officer,
T.Kallupatti Panchayat Union,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order refusing to encashment of the petitioner's earned leave passed by the first respondent vide his proceedings in Na.Ka.No.47496/2019/Vu.Va.4, dated 04.06.2020 and quash the same as illegal and direct the second respondent to sanction the encashment of earned leave to the petitioner.

For Petitioner : Mr.A.Balaji

For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

The petitioner had earlier worked as Block Development Officer (VP), T.Kallupatti Panchayat Union, Madurai District, who was suspended from service and he was not allowed to retire from service on the date of his superannuation. Due to that, he was not paid the encashment of his leave salary. Therefore, the petitioner has made a representation to the first respondent in this regard. Subsequently, the first respondent passed an impugned order dated 04.06.2020, refusing to sanction the encashment of the petitioner's leave salary, as against which the present writ petition has been filed.

2.The issue with regard to the disbursement of the encashment of leave salary has already been settled in various decisions 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**, wherein it

was held as follows:-
<https://hcservices.courts.gov.in/hcservices>



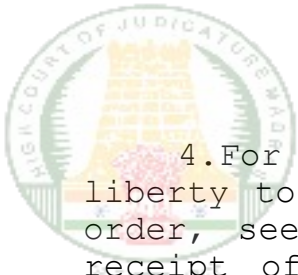
'2.The writ petitioner, who is the respondent herein, filed the writ petition, seeking direction to the appellants herein to disburse his retirement benefits, such as gratuity, special provident fund, encashment of earned leave and unearned leave on private affairs.

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 would be deemed to be the petitioner's property, which he would be entitled to receive the same.



4. For all the forgoing reasons, 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 on receipt of the such representation, the respondents herein shall positively disburse the Encashment of Leave Salary and ensure that such disbursement is made at least within a period of **eight [8] weeks** from the date of receipt of the fresh representation along with a copy of this order.

5. With the above directions, this Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 District Collector,
Collectorate Campus,
Madurai - 625 020.

2. The Block Development Officer,
T.Kallupatti Panchayat Union,
Madurai District.

+1 CC to M/s.A.BALAJI, Advocate (SR-11743[F] dated 17/03/2021)
+1 CC to M/s.SPL GP (SR-11996[F] dated 17/03/2021)

W.P. [MD]No.10746 of 2020

15.03.2021

nsm(CO)

TR(31.03.2021) 3P 5C