



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.12357 of 2021

WEB COPY

J.Jeyaseelan David

... Petitioner

vs.

1.The Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture (AA2) Department,
Secretariat, Chennai - 600 009.

2.The Director of Agriculture,
Chepauk,
Chennai - 600 005.

3.The Joint Director of Agriculture,
Collectorate Complex,
Nagercoil - 629 001,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent ie., the Agricultural Production Commissioner and Principal Secretary to Government, Agriculture Department, Chennai, to take immediate action for disbursement of the Encashment of Leave Salary and Special Provident Fund to the petitioner.

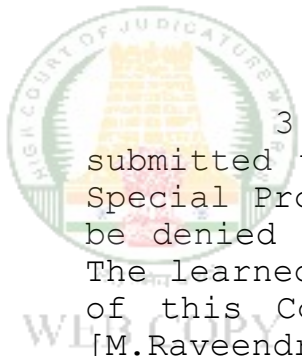
For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to direct the first respondent to take immediate action for disbursement of the Encashment of Leave Salary and Special Provident Fund to the petitioner.

2.According to the petitioner, he was working as Assistant Director of Agriculture, Munchirai, Kanyakumari District and his date of superannuation was on 30.11.2016. He was not allowed to retire from service and he was placed under suspension, vide order, dated 30.11.2016. Hence, the petitioner was not entitled to get regular retirement benefits. But, he was entitled to Encashment of Leave Salary and Special Provident Fund.



3.The learned counsel appearing for the petitioner submitted that this Court held that Encashment of Leave Salary and Special Provident Fund are the properties of employees, which cannot be denied even on the ground of removal or dismissal from service. The learned counsel appearing for the petitioner relied on the order of this Court, dated 13.12.2018 made in W.P(MD)No.22823 of 2018 [M.Raveendran vs. The Joint Registrar of Co-operative Societies, Sivagangai and another] and prayed for allowing the writ petition.

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

5.In the present writ petition, the petitioner is seeking a direction to disburse the Encashment of Leave Salary and Special Provident Fund. The payment of Encashment of Leave Salary and Special Provident Fund cannot be withheld by the authority, even if the petitioner is suspended and not permitted to retire from service. This issue was considered by the Division Bench of the Principal Bench of this Court, dated 26.02.2016, made in **W.A.No.207 of 2016 (TANGEDCO, The Chairman-cum-Managing Director and others Vs. P.K.Panchaksharam)**. The Division Bench of this Court upheld the order of the learned Single Judge that Encashment of Leave Salary and Special Provident Fund are the properties of the employee and even if he is dismissed from service, he is entitled to recover the said amount.

6.Considering the submissions made by the learned counsel appearing on either side, the ratio laid down in the judgment, dated 26.02.2016 made in W.A.No.207 of 2016 is squarely applicable to the facts of the present case. Therefore, the respondents are directed to calculate the amounts payable to the petitioner towards Encashment of Leave Salary and Special Provident Fund and pay the same within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps



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 Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture (AA2) Department,
Secretariat,
Chennai - 600 009.

2.The Director of Agriculture,
Chepauk,
Chennai - 600 005.

3.The Joint Director of Agriculture,
Collectorate Complex,
Nagercoil - 629 001,
Kanyakumari District.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-23532[F] dated
22/07/2021)

+1 CC to M/s.GP (SR-23714[F] dated 23/07/2021)

W.P (MD)No.12357 of 2021

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MGJ(02.08.2021) 3P 6C