



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.7805 of 2016

WEB COPY

Thirunavukkarasu

... Petitioner

vs.

The Executive Engineer WRD,
Irukkankudi Reservoir Project Division,
Virudhunagar.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to pay all the retirement benefits such as pension, gratuity, provident fund and other eligible benefits to the petitioner within the time framed by this Court.

For Petitioner : Mr.S.Natarajan
For Respondent : Mr.M.Linga Durai
Government Advocate

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus, to direct the respondents to pay all the retirement benefits such as pension, gratuity, provident fund and other eligible benefits to the petitioner within a time frame, that may be stipulated by this Court.

2.Heard Mr.S.Natarajan, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate, learned Counsel for the respondents.

3.The petitioner was working as a Junior Assistant in the office of the Executive Engineer, PWD, Water Resource Organization, Irukankudi Reservoir Division and his date of superannuation was on 31.08.2010. However, it is stated that the petitioner, on the verge of his retirement, was suspended from service by order, dated 02.08.2010 on the basis of a complaint. The grievance of the petitioner is that though he was suspended from service on 02.08.2010, he was not allowed to retire from service and that the order of suspension on the verge of retirement is illegal.

4.Even at the time of filing of this Writ Petition in 2016, six years have gone from the date of suspension. It is stated that the respondents ought to have revoked the suspension, as no charge sheet is filed nor disciplinary proceedings are initiated against



the petitioner. Since the request of the petitioner for revocation of suspension was not considered, alternatively, the petitioner has come forward with the prayer for disbursement of retirement benefits.

5. It is admitted that the petitioner was not allowed to retire from service and that the service of the petitioner may come to an end after the verdict in the criminal case and after the disciplinary proceedings are over. There is no necessity to revoke the suspension order, once the petitioner has attained the age of superannuation. However, the question regarding the retirement benefits will have to be examined. The petitioner may be entitled to provident fund, leave salary, etc. The petitioner may not get gratuity or pension even before completion of disciplinary proceedings, as the petitioner was not been given permission to retire. There is no prayer specifically for disbursement of earned leave or encashment of unearned leave.

6. In such circumstances, this Writ Petition is partly allowed and the respondent is directed to pay leave salary and the amount, that was contributed by the petitioner towards provident fund and other benefits, if any, which can be paid to the persons, who have reached superannuation, but not permitted to retire from service due to pendency of departmental proceeding or criminal case. The respondent shall disburse the eligible benefits, as indicated above, to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr/tmg

To

The Executive Engineer WRD,
Irukkankudi Reservoir Project Division,
Virudhunagar.

+1 CC to M/s.S.NATARAJAN, Advocate (SR-29745[F] dated 21/09/2021)

+1 CC to M/s.SPL. GP (SR-29761[F] dated 21/09/2021)

W.P. (MD)No.7805 of 2016

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RD(1.10.2021) 2P 4C

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