



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4260 of 2022

A.Kumaresan

... Petitioner

Vs.

1. The Joint Registrar of Co-Operative Societies,
Vellore Region, Collectorate Office,
Vellore-9.

2. The Deputy Registrar of Co-Operative Societies (PDS),
Collectorate, A-Block, 4th Floor,
Vellore-9.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.654/2017A dated 27.01.2022 and quash the same and consequently, direct the Respondents to forthwith pay the Encashment of earned leave on private affairs and Special Provident Fund.

For Petitioner : Mr.N.Kolandaivelu

For Respondents: Mrs.S.Anitha,
Special Government Pleader

O R D E R

The relief sought for in the writ petition is for Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka.No.654/2017A dated 27.01.2022 and to quash the same and consequently, direct the Respondents to forthwith pay the Encashment of earned leave on private affairs and Special Provident Fund.

2.Brief facts of the case:

The petitioner was appointed as Junior Inspector in the year 1985 and subsequently promoted as Senior Inspector in the year 1995. While he was working as Senior Inspector of Co-operative Societies Gudiyatham PDS-II, Office of the Deputy Registrar (PDS), Vellore, he was placed under suspension on 18.04.2017 by the second respondent on the ground that a criminal case was pending against him. Following the suspension order, the



petitioner was not permitted to retire from service. Hence, he gave representation to the second respondent and the same was rejected. Hence, the writ petition.

3(a).The learned counsel for the petitioner would submit that while the petitioner was working as Senior Inspector of Co-operative Societies Gudiyatham PDS-II, Office of the Deputy Registrar (PDS), Vellore, he was placed under suspension on 18.04.2017 by the second respondent on the ground that a criminal case in C.C.No.6 of 2009 before the learned Judicial Magistrate -II was pending against him. Hence, he was not permitted to retire from service order dated 29.04.2017.

3(b).Therefore, the petitioner has given representation to the second respondent dated 04.11.2020 and reminder on 20.01.2022 seeking for encashment of earned leave and unearned leave on private affairs and for Special Provident Fund and also enclosed similar orders of this Court in W.P.No.35328 of 2019, dated 06.01.2020 & W.P.No.24921 of 2019, dated 13.09.2019. But the same has been rejected by the second respondent in his proceedings in Na.Ka.No.654/2017A, dated 27.01.2022, on the ground that the above said order was obtained by one individual and that order was not applicable to the petitioner.

3(c).He would further submit that the encashment of earned leave and unearned leave on private affairs amounts are the petitioner partake, which accumulated during the course of employment and also the petitioner's contribution should be credited to his Special Provident fund account and therefore, the respondents cannot withhold the same.

3(d).In similar circumstances, the respondents have implemented the order of this Court by passing G.O.(D).No.108, dated 03.09.2020 & 194, dated 08.12.2021 and as per the said G.Os, the respondents can not deny benefits to the petitioner. Further, in similar circumstances, this Court passed several orders in W.A.No.4018 of 2019, dated 22.11.2019, W.A.No.958 of 2021, dated 13.08.2021, W.P.No.35328 of 2019, dated 06.01.2020 and W.P.No.19687 of 2021, dated 01.11.2021, and as per the orders of this Court, the petitioners therein are entitled for the encashment.

4.The learned Government Pleader appearing for the respondent would submit that the petitioner was under extended service of the State of Tamil Nadu and he has committed the act of grave misconduct causing huge financial loss to the said Society. In this regard, a criminal case Cr.No.1/2009, CC.NO.6-76/2012 was under trial before the learned Judicial Magistrate II, Vellore. Further, until final orders are passed in the Criminal proceeding pending against the petitioner, the



respondents are unable to release the terminal benefits viz., 1.Encashment of Earned Leave and Unearned Leave on Private Affairs, 2.Special Provident Fund. Hence, the petitioner was not permitted to retire and service also extended under FR 56(1)(c). Hence, the petitioner is deemed to be in service. Hence, seeking for above terminal benefits does not arise.

5.Heard the learned counsels on either side and perused the materials placed on record.

6.In view of the above, it is seen that the petitioner is entitled for the relief sought for in the light of the orders passed by this Court in W.P.No.35328 of 2019, dated 06.01.2020 and W.P.No.19687 of 2021, dated 01.11.2021 and hence, this Court is inclined to quash the impugned order passed by the second respondent in his proceedings in Na.Ka.No.654/2017A, dated 27.01.2022, and also directs the respondents to consider the petitioner's representation dated 04.11.2020 seeking for encashment of earned leave and unearned leave on private affairs and for special provident fund and pass appropriate orders as early as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order.

7.With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Dua

To

1. The Joint Registrar of Co-Operative Societies,
Vellore Region, Collectorate Office,
Vellore-9.
2. The Deputy Registrar of Co-Operative Societies (PDS),
Collectorate, A-Block, 4th Floor,
Vellore-9.

+1cc to Mr.N.Kolandaivelu, Advocate, S.R.No.21144
+1cc to the Special Government Pleader, S.R.No.21337

W.P.No.4260 of 2022

RP(CO)
CT 12/04/2022