



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 3945 of 2020
and WMP.No. 4677 of 2020

M.I.Muneer Ahmed

...Petitioner

Vs.

The Superintending Engineer
Chengai Electricity Distribution Circle,
TANGEDCO, Tamil Nadu Electricity Board,
Chegalpattu, Chengalpattu District.

..Respondents.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings K. No. 1502 / SE / C.E.D.C. / Sae / Ni.A / Ni. Mae / Ni.Pi.3 / U.2 / Ko.Court Case / 2019 dated 24.5.2019 and quash the same and consequently directing the respondent to disburse the petitioners retirement benefits like Gratuity Special Provident Fund Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs to the petitioner.

For Petitioner : Mr. C.Prakasam
For Respondents : Mr. P.Subramanian, TNEB

O R D E R

The relief sought for by the petitioner in the writ petition is for directions to the respondent to disburse the retirement benefits viz., SPF, encashment of E.L and encashment of Un-Earned Leave on private affairs.

2. The learned counsel for the petitioner submitted that the petitioner was appointed as Helper in the year 1985 and subsequently promoted as Foreman in the year 2000an posted at Office of the Junior Engineer, TNEB, Kovalam. Based on the complaint registered by the Vigilance and Anti Corruption, the petitioner was suspended from service on 17.09.2009. The learned counsel for the petitioner has further submitted since the petiitner was under suspension at the time superannuation,



he was not allowed to retire on superannuation on 31.12.2016 and except GPF, no other retirement benefits were disbursed. Hence the petitioner made representation to the respondent requesting to disburse retirement benefits viz., Gratuity, Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs, but the respondent rejected the request of the petitioner vide impugned proceedings in K.No. K. No. 1502 / SE / C.E.D.C. / Sae / Ni.A / Ni. Mae / Ni.Pi.3 / U.2 / Ko.Court Case / 2019 dated 24.5.2019. Challenging the same, the present writ petition is filed.

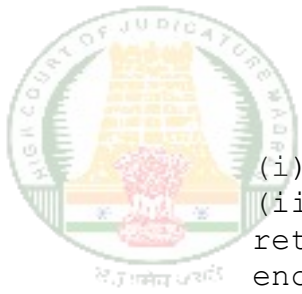
3. The learned Standing Counsel appearing for the respondents submitted that the Hon'ble Division Bench of this Court in W.A.No. 269 of 2020 dated 15.09.2021, following the decision of the Hon'ble Apex Court in the case of Steel Authority of India Vs.Raghbendhra Singh and Others reported in (MANU/SCOR/46090/2020) and in the case of Chairman-cum-Managing Director, Mahanadi Coalfields Limited Vs.Rabindranath Choubey, reported in AIR 2020 SC 2978, has observed as follows;

..... the employer has a right to withhold gratuity during pendency of the disciplinary proceedings and that the gratuity amount can be adjusted to recover the amount.

8. If the order of the learned Single Judge is tested in line with the aforesaid decisions of the Supreme Court, a portion of the order of the learned Single Judge, insofar as it grants gratuity and other pensionary benefits, is liable to be interfered with and the order needs slight modification. Accordingly, the order of the learned Single Judge in respect of pension and gratuity alone is set aside. The rest of the orders remains unaltered".

4. In view of the aforesaid decision of this Court, the respondent-Board may not have any serious objections to disburse the retirement benefits viz., SPF, encashment of E.L and encashment of Un-Earned Leave on private affairs to the petitioner.

5. Considering the facts and circumstances of the case and in the light of the decision of the Hon'ble Division Bench of this Court in W.A.No. 269 of 2020 dated 15.09.2021 this Court is of the view that the writ petitioner is entitled for the retirement benefits viz., SPF, encashment of E.L and encashment of Un-Earned Leave on private affairs. Accordingly, the following directions are issued;



WEB COPY

(i). Impugned order dated. 24.05.2019 is set aside.

(ii). The respondents are directed to disburse the retirement benefits viz., SPF, encashment of E.L and encashment of Un-Earned Leave on private affairs to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ak
To

The Superintending Engineer
Chengai Electricity Distribution Circle,
TANGEDCO, Tamil Nadu Electricity Board,
Chengalpattu District.

+1 CC to Mr.P. Subramanian, Advocate sr 10131

W.P.No.3945 of 2020
and WMP.No. 4677 of 2020

PMK (CO)
SP (25/03/2022)