IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.17284 of 2020

K.Vaidhyanathan .. Petitioner

vs.

1.The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner,
Commercial Tax Department,
Chepauk, Chennai-600 005. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the first respondent in Letter No.6117/E1/2020-1 dated 12.10.2020 and quash the same as illegal and consequently direct the first respondent to grant terminal benefits i.e., encashment of earned leave, encashment of Special Provident Fund, Encashment of Unearned Leave on private affairs and DCRG.

For Petitioners : Mr.S.Udhayakumar

For Respondents : Mr.R.Siddarth,
Government Advocate

O R D E R

The petitioner, challenging the impugned order of the first respondent dated 12.10.2020, in and by which the petitioner's claim for grant of terminal benefits viz., Encashment of Earned Leave, Encashment of Special Provident Fund, Encashment of Unearned Leave on Private Affairs and DCRG, came to be rejected, has filed the present writ petition.

2. The case of the petitioner is that he joined the service as Typist on 22.09.1982 and had put in 37 years of service. The petitioner was issued with three charge memos on 12.06.2014, 22.02.2016 and 21.06.2017 involving huge revenue and charges were framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules and enquiry was conducted as early as on 25.07.2019. In the meantime, the petitioner attained the age of superannuation on 30.06.2019, but he was not allowed to retire and was placed under suspension on 28.06.2019. The petitioner has participated in the departmental enquiry, but no final order was passed yet. The petitioner, in this regard, has submitted a representation dated 18.08.2020 to the first respondent to disburse the terminal benefits as stated above, but the same was rejected by first respondent, vide impugned order

dated 12.10.2020 on the ground that the petitioner is under suspension and disciplinary proceedings are pending against him. Challenging the same, the petitioner has filed the present writ petition.

3. Mr.R.Siddharth, learned Government Advocate for the respondents has drawn the attention of this Court to paragraph No.16 of the counter affidavit wherein it has been stated that as per Explanation II under Sub-Rule (1) of Rule 56 and as per Sub-Clause (1) of Clause (a) of Rule 86 of the Fundamental Rules, Government Servants in Group B, C and D are eligible to draw cash benefits of encashment of earned leave and unearned leave on private affairs on the date of retirement or on the date of termination of extension of service, as the case may be and further, Special Provident Fund amount is also required to be paid at the time of retirement of the Government Servant or in the case of death of an employee. Further, the petitioner's service has been extended as per Clause (c) Sub Rule (1) of Rule 56 of the Fundamental Rules and therefore, the petitioner is entitled for Encashment of Earned Leave, Encashment of Special Provident Fund and Encashment of Unearned Leave on Private Affairs and as regards DCRG, it is for the respondents to consider and take decision for payment of the said amount to the petitioner.

4. Now both the learned counsel for the parties have agreed that appropriate orders may be passed for passing final orders by the Disciplinary Authority in the pending disciplinary proceedings.

5. Therefore, this Court directs the first respondent to pass final orders on merits and in accordance with law after affording opportunity to the petitioner, on the pending disciplinary proceedings initiated against the petitioner for the alleged three charges, as expeditiously as possible, within a period of six weeks from the date of receipt of a copy of this order.

6. The Writ Petition stands disposed of with the above direction. No costs.

21.03.2022

Index : Yes / No
Internet : Yes / No
Jvm

To
1.The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner,
Commercial Tax Department,
Chepauk, Chennai-600 005.

D.KRISHNAKUMAR, J.

Jvm

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