



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31390 of 2018

and

W.M.P No. 36577 of 2018

S.Vijayakumar

... Petitioner

-vs-

The Principal Secretary,
Transport Commissioner,
Chepauk,
Chennai-600 005.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, order or direction in the nature of a writ, calling for the entire records relating to the impugned order passed by the Respondent in his Letter No. 35684/R1/2017, dated 23.01.2018 and quash the same and consequently directing the Respondent to disburse the retirement benefits like Special Provident Fund, Encashment of Earned Leave and Encashment of Un-earned Leave on private affairs together with interest to the Petitioner.

For Petitioner : Mr. C.Prakasam

For Respondent : Mr. P.Gurunathan
Additional Government Pleader

O R D E R

Heard Mr. C.Prakasam, Learned Counsel for the Petitioner, Mr. P.Gurunathan, Learned Additional Government Pleader appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while working as Superintendent in Regional Transport Office, Thiruvallur, was arrested by Vigilance and Anti Corruption for demand and acceptance of bribe



and he was placed under suspension with effect from 17.08.2011 and though he attained the age of superannuation on the afternoon of 30.09.2017, he was not permitted to retire from service. The Petitioner then made a representation dated 21.10.2017 to the Respondent for payment of the terminal benefits of general provident fund, special provident fund and encashment of earned leave and un-earned leave on private affairs and this Court by order dated 30.11.2017 in W.P. No. 31175 of 2017 passed orders for disposal of the said representation within a period of four weeks from the date of receipt of its copy.

3. It is informed that in furtherance to the said order, the representation dated 21.10.2017 made by the Petitioner has been disposed by order dated 23.01.2018 passed by the Respondent informing that the concerned authorities would disburse the contribution made by the Petitioner towards the general provident fund and special provident fund immediately, but encashment of earned leave and un-earned leave on private affairs could be disbursed only after regulation of suspension period of individual. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the said order and has sought for consequential direction to make payment of his retirement benefits like special provident fund, encashment of earned leave and un-earned leave on private affairs with interest.

4. At this juncture, it would be useful to refer to the decision of the Division Bench of this Court in the State of Tamil Nadu -vs- V.Mahalingam (Order dated 10.04.2019 in W.P. No. 1285 of 2019) in which the legal position explained as follows:-

" 5. Before proceeding further, it would be necessary to examine the nature and legal basis for payment of 'earned leave' to Government Servants. Rules 7 to 12 of the Tamil Nadu Leave Rules, 1933, contain the statutory provisions for earned leave. It could be seen from the aforesaid provisions that the leave account of every permanent Government Servant shall be credited with earned leave in advance in two instalments of fifteen days each on the first day of January and first day of July every year. The leave at the credit of a Government Servant at the close of the previous half year shall be carried forward to the next half year, subject to the condition that the leave so carried forward plus the credit for the half year do not exceed the maximum limit of 240 days. The said



5. In such circumstances, it is not possible to accept the explanation of the Respondent for withholding the earned leave and un-earned leave on private affairs of the Petitioner and the Respondent is bound to make payment of the monetary benefits claimed immediately along with working-sheet showing the calculation under written acknowledgement and file report of compliance in that regard by 30.09.2022 before the Registrar (Judicial) of this Court.



6. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Principal Secretary,
Transport Commissioner,
Chepauk,
Chennai-600 005.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.19648

+1cc to the Government Pleader, S.R.No.19537

W.P. No. 31390 of 2018

AD(CO)
SB(05/07/2022)