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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.3940 of 2022

L.Raymond

... Petitioner

/vs./

1.The Secretary to Government,
Home (Transport) Department,
Secretariat, Chennai-600 009.

2.The Transport Commissioner,
Commissionerate of Transport and Road Safety,
Chepauk, Chennai-600 005.

3.The Regional Transport Officer,
Madurai North,
Matthuthavani, Madurai-625 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the first respondent (i.e.,) the Secretary to Government, Home (Transport) Department, Chennai, to take immediate action for disbursement of the Special Provident Fund and Encashment of Leave Salary to the petitioner within a specified time frame that may be fixed by this Court.



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For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader.

ORDER

The petitioner, who had earlier worked as a Personal Assistant to the RTO, Madurai North, Madurai, was suspended from service and was not allowed to retire on the date of his superannuation. Owing to that, he was not paid the Encashment of Leave Salary and Special Provident Fund. Hence, the petitioner has made a representation to the respondents on 20.01.2022 in this regard. In view of the non-consideration of his representation, the present writ petition has been filed.

2.The issue with regard to the disbursement of encashment of leave salary and special provident fund has already been settled in various decision and the judgment of the Division Bench in W.A.No.207 of 2016 dated 26.02.2016 in the case of **TANSIDCO vs P.K.Panchaksharam** is one, wherein it was held as follows:-



'2.The writ petitioner, who is the respondent herein, filed the writ petition, seeking direction to the appellants herein to disburse his retirement benefits, such as gratuity, special provident fund, encashment of earned leave and unearned leave on private affairs.

3.The respondent herein working as Electrician in the Electricity Board was to retire on attaining the age of superannuation on 30th June, 2013. However, he was not permitted to do so on account of pendency of the criminal case under the provisions of the Prevention of Corruption Act, 1988.

4.The learned Single Judge, considering all aspects of the matter, held that the petitioner was having earned leave and unearned leave on private affairs before initiation of the case and as such, he is entitled to encashment of earned leave and unearned leave on private affairs. The claim of gratuity was given up by the employee / writ petitioner on the ground that in the event of conviction and dismissal of service, the writ petitioner may not be entitled to get gratuity. The special provident fund was also not granted as the writ petitioner failed to establish any contribution made by him. While disposing of the writ petition, a direction was made to the appellants herein to disburse encashment of earned leave and encashment of unearned leave on private affairs. In respect of special provident fund, it was held that if any contribution was made by the writ petitioner, the same can be paid to the petitioner.

5.We do not find any error, illegality or infirmity in the order sought to be impugned in this writ appeal preferred by the Tamil Nadu Generation and Electricity Distribution Corporation Ltd., warranting interference. Thus, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition stands closed.'



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3.The aforesaid observations made in the decision are self explanatory. In view of these observations, it can be held that the earned leave salary and the petitioner's contribution towards Special Provident Fund would be deemed to be the petitioner's property, which he would be entitled to receive the same.

4. In this background, the petitioner is granted liberty to make a fresh representation to the respondents, seeking for disbursement of the encashment of leave salary and Special Provident Fund and on receipt of such representation along with a copy of this order, the respondents herein shall positively disburse the encashment of leave salary and Special Provident Fund and ensure that such disbursement is made, at least within a period of eight weeks from the date of receipt of the fresh representation.

5.With the above directions, this Writ Petition stands allowed. No costs.

28.07.2022

Index : Yes / No
Internet : Yes / No
ssb



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M.S.RAMESH, J.

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