



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Twenty Third day of August Two Thousand and Twenty Two
PRESENT

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The Hon`ble Mr.Justice M.S.RAMESH

WMP(MD) No.8089 of 2022
IN
WP(MD) No.13157 of 2022

G.SUBBURAJ

... PETITIONER/PETITIONER

Vs

1 THE SUPERINTENDING ENGINEER
O/O. SUPERINTENDING ENGINEER,
TANGEDCO,
THENI ELECTRICITY DISTRIBUTION CIRCLE,
THENI, THENI DISTRICT.

2 THE EXECUTIVE ENGINEER
O/O. THE EXECUTIVE ENGINEER,
TANGEDCO,
THENI ELECTRICITY DISTRIBUTION CIRCLE,
THENI, THENI DISTRICT.

3 THE STORE OFFICER
CENTRAL STORE,
TANGEDCO, THENI,
THENI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an AD-INTERIM DIRECTION directing the Respondents to release the General Provident Fund, Earned Leave and Medical Leave Surrender and other benefits pending disposal of the above writ petition.

Prayer in WP(MD) . 11357/ 2022 :

To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned charge memo issued by the 3rd Respondent in his proceedings in கு.எண்.00101/புது/ம.பா.சா/தேமிபவ/தேனி/கோ.மறையம்/2022 dated 21.05.2022 and the consequential Order of Suspension passed by the 1st Respondent in his proceedings in கு.ஆ.எண்.390./மேபொ/தேனி/நி.அ/நி.பி/உ3கோ/2022 dated 27.05.2022 and the consequential order of not allow to retirement passed by the 1st Respondent in his proceedings in



Memo.No.600/SE/TNI/Adm.O/Adm.I/A3/F.confdl/2022 dated 31.05.2022 and quash the same illegal and consequentially to direct the 1st Respondent to allow the petitioner to retire from service on attaining the age on superannuation on 31.05.2022 with all attendant monetary benefits within the period that may be stipulated by this Hon`ble Court.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.AJMAL KHAN, Senior Advocate for M/S.AJMAL ASSOCIATES, for the petitioner and of Mr.S.ARIVALAGAN, Standing Counsel on behalf of the Respondents No.1 to 3, the court made the following order:-

In cases, where the Government employees are not permitted to retire from service, in view of the pending departmental action, they would be still entitled for the eligible retirement benefits, which include encashment of leave salary and Special Provident Fund.

2.This Court, in various decisions, had upheld the ratio that such employees' eligible benefits cannot be withheld by the concerned Department and in one such decision of this Court, in the case of **G.Antonysamy vs. the Deputy Director of Survey & Land Records, Old Ramanathapuram Collectorate Building, Madurai and another** in **WP(MD)No.23713 of 2019** dated **23.01.2020**, the same proposition was upheld in the following manner:

"2.The issue with regard to the disbursement of the 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



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WMP(MD)



122

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 appellant 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.'

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."

Thus, the petitioner herein would be entitled for eligible benefits, without reference to the pending departmental action.

3. Accordingly, there shall be a direction to the respondents herein to forthwith disburse the encashment of leave salary, special provident fund, provisional pension and any other eligible monetary benefits, within a period of four (4) weeks from the date of receipt of a copy of this order. This Writ Miscellaneous Petition stands allowed.

4. Post the Writ Petition for 'final disposal' on **20.09.2022**.

sd/-

23/08/2022

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/ /2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TANGEDCO, THENI,
THENI DISTRICT.

+1. C.C. to M/S.AJMAL ASSOCIATES, SR.No.8905

ORDER

IN

WMP(MD) No.8089 of 2022

IN

WP(MD) No.13157 of 2022

Date :23/08/2022

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SA/VR/SAR.4/30.08.2022/4P/5C