



W.P.(MD) No.11319 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.11319 of 2022

N.Dhasaratharaman

... Petitioner

Vs.

The District Collector,
Ramanathapuram District,
Ramanathapuram.

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling the records of the respondent i.e., the District Collector, Ramanathapuram, relating to his Na.Ka.No.H2/20327/2021, dated 15.03.2022 and quash the same and consequently, direct the respondent i.e., the District Collector, Ramanathapuram for the disbursement of Special Provident Fund, Encashment of Leave Salary and DCRG within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.A.Sivanupandian
Government Advocate



W.P.(MD) No.11319 of 2022

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ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent.

2.The petitioner herein, while serving as Office Assistant, was due to retire from service on 30.06.2021. On the date, when he reached the age of superannuation, the respondents herein had placed him under suspension and did not permit him to retire, by quoting the pendency of a criminal case. The petitioner's request to pay the eligible terminal benefits was rejected through the impugned order, dated 15.03.2022, which is under challenge in the present writ petition.

3.The proceedings of the respondent herein, denying the eligible terminal benefits cannot be sustained in view of various decisions of this Court. In the case of ***Chief Secretary to Government, Public (Special-A) Department, Fort St. George, Chennai Vs. M.Uthiraswamy***, a Honourable Division Bench of this Court had passed orders on 22.11.2019 in W.A.No. 4018 of 2019, holding that such eligible benefits cannot be forfeited even in



W.P.(MD) No.11319 of 2022

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“16. Employees contribution to Provident Fund and leave which has been earned by him (not encashed) are the property of the employee, they cannot be taken away, without due process of law, as enshrined, under Article 300-A of the Constitution of India. There is nothing in the Rules which has been relied by the learned Government Pleader, which will enable the Government to withhold the Employee's own contribution to Provident Fund and encashment of accumulated earned leave when the Government servant has attained the age of superannuation. These amounts have to be given to the Government servant, even if the criminal proceedings culminate against the Government servant and the Government servant is terminated from service. If these amounts cannot be forfeited even on termination, there is no justification in withholding the same during the continuation of criminal proceedings after the Government servant has attained the age of superannuation.”

4. The aforesaid order is self explanatory. As such, denial of the eligible benefits to an employee, who is under suspension pending the criminal case,



W.P.(MD) No.11319 of 2022

would be entitled for certain eligible benefits like his contribution to the provident fund and encashment of leave salary.

5.In the light of the above findings, the impugned order passed by the respondent in Na.Ka.No.H2/20327/2021, dated 15.03.2022, is hereby quashed. Consequently, there shall be a direction to the respondent herein to pass appropriate orders, disbursing the petitioner's contribution to the provident fund and encashment of leave salary, within a period of four weeks from the date of receipt of a copy of this order.

6.Accordingly, this writ petition stands allowed. There shall be no order as to costs.

01.07.2022

Index : Yes / No
Speaking Order/ Non Speaking Order
TM

To

The District Collector,
Ramanathapuram District,
Ramanathapuram.

4/5



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W.P.(MD) No.11319 of 2022

M.S.RAMESH,J.

TM

W.P.(MD) No.11319 of 2022

01.07.2022