



W.P(MD)No.13229 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13229 of 2019

A.Sivaniah

... Petitioner

Vs.

Arasu Rubber Corporation Ltd.,
Vadachery,
Nagercoil-1,
Through its Managing Director.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in C.No.F2/13293/17, dated 13.08.2018 on the file of the respondent and quash the same as illegal and consequently, to direct the respondent to disburse the gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on private affairs to the petitioner with interest within a time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondent : Mr.A.K.Manikkam
Special Government Pleader



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ORDER

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Heard the learned counsel on either side.

2. The petitioner joined the respondent corporation and at the time of superannuation, he was working as Divisional Manager. He was allowed to retire without prejudice to the disciplinary action as well as criminal case then pending against him. It is not in dispute that till date, the said proceedings are still pending. The petitioner applied to the management for disbursement of certain benefits such as gratuity and encashment of earned leave. Such request was rejected by citing the pendency of the criminal case and disciplinary action. Questioning the rejection order dated 13.08.2018, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondent reiterated the respective contentions projected in the pleadings.

4. After a careful consideration of the same, I am satisfied that the issue on hand is no longer *res integra*. One such order dated 22.08.2017 made in W.P.(MD)No.139 of 2016 has been enclosed in the typed set of papers. It was held therein as follows:-



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6. In this regard, the learned counsel for the writ petitioner urged this Court in respect of the order passed in W.P.No.15457 of 2015 on 02.06.2015, Paragraph 7 of the order is extracted as under:-

In view of the same, a direction is issued to the respondents to disburse encashment of earned leave and encashment of unearned leave on private affairs. As far as Special Provident Fund is concerned, the respondents are directed to refund the same, if there is any contribution made by the petitioner. If the petitioner has contributed towards other terminal benefits, the extent to the contribution made by the petitioner shall also be paid. The respondents are directed to disburse the aforesaid amount, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

7. The above said order was taken by way of an appeal before the Hon'ble Division Bench in W.A.No.207 of 2016 and the order passed in that writ petition was confirmed and the writ appeal was dismissed. The State preferred SLP (c) No.016229 of 2016 and the same was also dismissed on 06.07.2017.

8. Thus, the respondent is directed to disburse the personal contribution of the writ petitioner, including Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave as early as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

5. Respectfully applying the aforesaid ratio, the order impugned in the writ petition is set aside. The respondent is directed to disburse gratuity, encashment of earned leave and the petitioner's contribution to the provident fund to the writ petitioner within a period of twelve weeks from the date of



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receipt of a copy of this order. I make it clear that regularisation of the suspension order will depend upon the outcome of the disciplinary proceedings.

6. The writ petition is allowed on these terms. No costs.

07.11.2022

Index : Yes / No
Internet : Yes/ No
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To

Arasu Rubber Corporation Ltd.,
Vadachery,
Nagercoil-1,
Through its Managing Director.



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G.R.SWAMINATHAN, J.

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