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W.P.No.6145 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

Writ Petition No.6145 of 2020

A. Manoharan

Vs.

... Petitioner

1. The Principal Secretary to
Government of Tamil Nadu
Department of Revenue
Secretariat, Fort St.George,
Chennai 600 009
2. The District Collector
Namakkal District
Namakkal
3. The District Revenue Officer
Namakkal District
Namakkal.
4. The Tahsildar
Tiruchengode
Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to settle the petitioner's retirement benefits in pursuant to Earned Leave Encashment, Unearned Leave on Private Affairs Special Provident Fund



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(Employees Contribution) – 1, Special Provident Fund – 2 and Death cum Retirement Gratuity within a stipulated time.

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For Petitioner : Mr. T.P.Prabakaran
For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The petitioner has filed this petition seeking direction to the respondents to settle the petitioner's retirement benefits in pursuant to Earned Leave Encashment, Unearned Leave on Private Affairs Special Provident Fund (Employees Contribution) – 1, Special Provident Fund – 2 and Death cum Retirement Gratuity within a stipulated time.

2. The case of the petitioner is that the petitioner viz., A. Manoharan while he was working as Revenue Inspector was trapped by the Department of Vigilance and Anti-Corruption and an FIR in Crime No.10/AC/2004 was registered against him. The investigation in the said crime no. was concluded and a final report was filed before the learned Special Judge/CJM, Namakkal. The said court took the final report on file and commenced the criminal proceedings against the petitioner in Special C.C.No.14 of 2005. The said



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criminal court convicted the petitioner under Section 13(2) r/w 13(1) (d) of PC Act, 1988 and sentenced the petitioner to undergo a simple imprisonment for three years. Against the said conviction and sentence the petitioner filed Criminal Appeal No.233 of 2018 and CrI.M.P.No.5647 of 2018. This Court vide order dated 09.04.2018 suspended the sentence alone and the said criminal appeal is pending before this Court. A show cause notice was issued to the petitioner calling for explanation from him as to why the penalty of dismissal from service should not be imposed on him on the ground of conviction and sentence imposed on the petitioner by the trial Court. Thereafter, the petitioner submitted his explanation against the show cause notice. The third respondent found the explanation given by the petitioner unsatisfactory and imposed a punishment of dismissal from service. The petitioner submitted his representation before the 3rd respondent requesting for settling his terminal benefits to him. But the said representation failed to evoke any response. Having aggrieved against the same the petitioner has filed the present writ petition.

3. The learned Government Advocate drew the attention of this Court



to the counter affidavit filed by the second respondent and the relevant paragraphs are extracted hereunder:-

6. It is submitted that Dismissal/Removal of an employee entails forfeiture of his past services. As per section 52 of the Fundamental Rules and section 40 of the Tamil Nadu Pension Rules 1978, a dismissed employee is not eligible for the benefits of Encashment of Earned leave, Unearned Leave on private affairs and Death cum Retirement Gratuity. However, the employee will be entitled to the refund of his contribution towards the Special Provident Fund cum Gratuity Scheme 1984 and 2000 and the interest accrued therein.

7. It is submitted that since for instance, this petitioner has been dismissed from service u/s.17(c) (i) (1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, on 14.09.2018 as he was convicted in a criminal case under the provisions of Prevention of Corruption Act 1988, he is entitled only for the refund of his subscription towards the Tamil Nadu Government Employees Special Provident Fund cum Gratuity Scheme, 1984 and also for Tamil Nadu Government Employees Special Provident Fund cum Gratuity Scheme 2000 and the interest accrued therein.

4. In view of the above, the petitioner is entitled only for refund of his subscription towards the Tamil Nadu Government Employees Special



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Provident Fund cum Gratuity Scheme 1984 and also for Tamil Nadu Government Employees Special Provident Fund cum Gratuity Scheme 2000 along with accrued interest. The second respondent is directed to settle the Special Provident Fund cum Gratuity along with interest within a period of eight weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above observation and direction. No costs.

12.07.2023

dpq
Index : Yes/No
Speaking Order : Yes/No



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J. SATHYA NARAYANA PRASAD, J.

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