



W.P.No.13602 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.13602 of 2020

L.Meenakshi

...Petitioner

-Vs-

The District Collector,
Thiruvallur

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondent to dispose of the respective representations dated 04.10.2019 of the petitioner addressed to the respondent for payment of Earned leave, unearned leave, special provident fund and gratuity amount due and payable by the respondent to the petitioner within time frame.

For Petitioner : Mr.K.Ravi Anantha Padmanaban

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

This writ petition has been filed seeking a Writ of Mandamus directing the respondent to dispose of the representation dated 04.10.2019 of the



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petitioner for payment of Earned Leave, Unearned Leave, Special Provident Fund and Gratuity amount payable by the respondent to the petitioner within a time frame.

2. The case of the petitioner is that the petitioner joined as Typist in the year 1989 and was promoted as Assistant in the year 1996. Thereafter, in the year 2009, she was further promoted as Deputy Tahsildar. On 30.08.2011, she was arrested on the allegation of demanding bribe amount of Rs.3,000/- to transfer patta. She was placed under suspension since 31st August 2011. The petitioner filed a Writ Petition in W.P.No.1507 of 2018 before this Court to quash the suspension order. The said Writ Petition was allowed by order dated 02.01.2019. Subsequently, the respondent reinstated the petitioner into service by order dated 10.04.2019. The petitioner attained the age of superannuation on 31.05.2019.

3. The grievance of the petitioner is that though the respondent has released provisional pension to her, the other amounts to be payable towards Earned Leave, Unearned Leave (Private Affairs), Special Provident Fund and Gratuity are not paid. The petitioner submitted a representation dated



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04.10.2019 to grant the said amounts. As there is no action by the respondent, the petitioner is constrained to file this writ petition.

4. No counter affidavit has been filed on behalf of the respondent.

5. Heard the learned counsel for the petitioner and learned Special Government Pleader appearing for the respondent and perused the materials available on record.

6. Learned counsel for the petitioner would submit that the criminal case registered against the petitioner in S.C.No.3 of 2016 in the Court of Chief Judicial Magistrate, Tiruvallur was dismissed and the petitioner was acquitted. Learned counsel would also submit that in a similar circumstance, the very same Revenue Department paid the gratuity amount to a V.A.O., pending criminal prosecution under the Prevention of Corruption Act. Learned counsel for the petitioner relied on a common judgment dated 26.02.2020 passed in ***W.A (MD).Nos.68 of 2014 & 469 of 2018*** in the case of ***The State of Tamil Nadu & others vs. R.Balakrishnan*** and a judgment dated 13.08.2021 passed in ***W.A.No.958 of 2021*** in the case of ***The Secretary to Government and others vs. V.Jeyapal.***



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7. In the case of ***The State of Tamil Nadu and others vs. R.Balakrishnan (Supra)***, the Division Bench of this Court passed the following order as extracted hereinunder:

"12. In view of the above, the respondent/petitioner, therefore, entitled to the allowances, which is payable to him under Rule 53 of the Fundamental Rules. We, therefore, direct the State Government/appellants to forthwith release the contribution of the respondent/petitioner to the Provident Fund and also the Earned Leave Encashment, which is payable to the respondent/petitioner under Rule 53 (1) of the Fundamental Rules, within a period of one month from the date of receipt of a certified copy of this judgment."

8. In the case of ***The Secretary to Government & others vs. V.Jeyapal (supra)***, the Division Bench of this Court while allowing the said writ appeal issued the directions as extracted hereinunder:

"14. Accordingly, the Writ Appeal stands partly allowed. The appellants are directed to disburse the payment towards leave encashment of salary both earned and unearned leave of the respondent, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected CMPs are closed."



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9. Having regard to the facts and circumstances of the case, after hearing the learned counsel appearing on either side and on perusal of the reliance placed by the learned counsel for the petitioner, this Court is fully agreeing with the principle of law laid down in the Judgments relied supra.

10. Admittedly, the amounts accrued with the contribution of the employees to Provident Fund and the Earned Leave (not encashed) are the properties of the employees and the employees are entitled for that amount, even if the criminal proceedings initiated against them are pending. Even though the Government servant is terminated from service, the Government can't withhold that amount.

11. In the present case, admittedly, the criminal case initiated against the petitioner is ended acquitting the petitioner. As such, the petitioner is entitled for the relief sought for in her representation dated 04.10.2019 from the respondent.

12. In view of the above, the ends of justice would be met by disposing this writ petition by directing the respondent to consider and dispose of the



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representation dated 04.10.2019 submitted by the petitioner within the stipulated time in the light of the Judgment dated 26.02.2020 passed by the Division Bench of this Court in the case of *The State of Tamil Nadu & others vs. R.Balakrishnan*.

13. Accordingly, this writ petition is **disposed of** directing the respondent to consider the representation dated 04.10.2019 submitted by the petitioner and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this Order.

14. No costs.

15. Consequently, connected writ miscellaneous petition is closed, if any.

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Index: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No



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To

The District Collector,
Thiruvallur



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BATTU DEVANAND, J.

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