



WEB COPY



W.P.No.17666 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.17666 of 2020

P.Pitchaimani

...

/vs/

Petitioner

1. The Secretary to Government of Tamil Nadu,
Public Works (E2) Department,
Fort St. George, Secretariat,
Chennai – 104.

2. The Engineer in Chief,
WRD cum Chief Engineer (General)
Public Works Department,
Chepauk, Chennai – 5.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to sanction Encashment of Leave (8months, Unearned Leave on Private Affairs (3 months), Special PF and remaining 10% of General Provident Fund payable to the petitioner along with interest at 12% per annum in the light of the law laid down by this Court in W.A.(MD)No.105/2019 dated 31.07.2019.

For Petitioner ... Ms.V.Kanchana
for Mr.V.Vijayashankar
For Respondents ... Mr.P.Sanjay Gandhi, Govt. Advocate



W.P.No.17666 of 2020

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the respondents to sanction Encashment of Leave (8months, Unearned Leave on Private Affairs (3 months), Special PF and remaining 10% of General Provident Fund payable to the petitioner along with interest at 12% per annum in the light of the law laid down by this Court in W.A.(MD)No.105/2019 dated 31.07.2019.

2. The learned counsel for the petitioner submitted that the petitioner had joined in service as Assistant Draughtsman in the year 1974 and later promoted as Draughtsman; when he was due to retire on 31.07.2012, he was placed under suspension and not allowed to retire in view of pending departmental proceedings; thereafter the first respondent in his capacity as disciplinary authority imposed a punishment of dismissal from service against the petitioner; as against the order of dismissal the petitioner had filed a separate writ petition; the main grievance of the petitioner is that though he was dismissed from service, he is entitled to the encashment of Earned Leave, Unearned Leave on Private Affairs, Special Provident Fund and 10% of GPF to be paid by the department; however the same was not granted so far; hence the



W.P.No.17666 of 2020

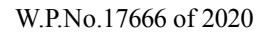
petitioner had sent a representation dated 13.10.2020 to the respondents calling upon them to sanction and pay the above benefits; since the same was not considered, the petitioner had filed this writ petition.

2.1 In support of his above contention, the learned counsel for the petitioner relied on the following judgment:

i) Judgment of Division Bench of this Court in ***The Secretary to Government, Revenue Department, Secretariat, Chennai and others Vs. K.Palaniyandi*** reported in ***2019 (5) CTC 19***;

ii) Judgment of Division Bench of this Court in ***The Secretary to Government, Rural Development and Panchayat Raj Department, Chennai*** in ***W.A.No.958/2021 dated 13.08.2021***.

3. The respondents have filed their counter affidavit by stating that there are no statutory provisions in the existing fundamental rules for sanctioning such benefits to a Government Servant who has been imposed with the punishment of removal of service; a Government Servant who has been imposed the above said punishment of compulsory retirement is alone eligible





W.P.No.17666 of 2020

4.1 The same issue has also been dealt by a Division Bench of this Court in ***The Secretary to Government, Rural Development and Panchayat Raj Department, Chennai (cited supra)*** wherein it is held as under:

“... 14. In other words, it is to be noted that even a person who is dismissed from service, is also entitled to the encashment of leave salary. If that being case, we do not find any logic behind the contention of the appellant as if such amount can be paid only after the termination of the proceedings. In other words, there must be a specific reason with object for retention of the said sum, pending disciplinary proceedings. What the Government Servant is entitled to even at the worst scenario of dismissal of his service, cannot be denied to be paid on his request, merely because, his service is retained.”

5. In view of the above decisions, it can be held that the petitioner is entitled to Encashment of Leave, Unearned Leave on Private Affairs, Special PF and General Provident Fund. The observations made in the above decisions are squarely applicable to the facts of the present case. Hence, I have no hesitation to grant the relief as claimed by the petitioner.

6. In the light of the above decisions of the Division Bench, this Writ



W.P.No.17666 of 2020

Petition is allowed and the respondents are directed to settle the Encashment of Leave, Unearned Leave on Private Affairs, Special PF and remaining 10% of General Provident Fund payable to the petitioner along with interest, in terms of the representation made by the petitioner on 13.10.2020, as admissible and payable within a period of four weeks from the date of receipt of a copy of this order. No costs.

04.10.2023

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To:

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W.P.No.17666 of 2020

R.N.MANJULA ,J.

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W.P.No.17666 of 2020

04.10.2023