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W.P.No.26506 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.26506 of 2021

M.Duraisamy

...

Petitioner

/vs/

1. The District Collector,
Erode District, Erode – 638 011.

2. The Revenue Divisional Officer,
Brough Road,
Erode - 638 001.

3. The Tahsildar,
Kodumudi Taluk,
Erode District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order in Na.Ka.No.5458/2015/A3 dated 06.10.2021 passed by the third respondent, quash the same and consequently direct the respondents to disburse the petitioner's Provident Fund Contribution, encashment of earned leave, unearned leave and medical leave by considering his representation dated 02.09.2021.

For Petitioner ... Mr.R.Darshan

For Respondents ... Mr.G.Nanmaran

Special Govt. Pleader



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ORDER

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2. The petitioner who was appointed as Village Administrative Officer and he has attained the age of superannuation on 31.05.2018. However he was not allowed to retire in view of the pending criminal proceedings in C.C.No.7 of 2016 pending before the learned Chief Judicial Magistrate, Erode. The petitioner submitted a representation on 02.09.2021 to the third respondent to forward his request to the second respondent to disburse the Earned Leave salary, Unearned Leave salary, Medical Leave salary, Provident Fund, etc. Subsequent to that, the third respondent had passed the impugned order dated 16.10.2021 in Na.Ka.No. rejecting the request of the petitioner. Aggrieved over that the petitioner has filed this Writ Petition.



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3. Heard Mr.D.Darshan, learned counsel for the petitioner and

Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

4. The petitioner's eligible leave salary and Provident Fund cannot be simply withheld for the reason that a criminal case is pending against the petitioner. While passing the above impugned order, the respondents did not cite any rules which should bar the said payments. Hence, the impugned order is liable to be set aside.

5. In view of the same, this Writ Petition is allowed and the order passed by the third respondent in Na.Ka.No.5458/2015/A3 dated 06.10.2021 is hereby set aside and the respondents are directed to disburse the petitioner's Provident Fund Contribution, encashment of earned leave, unearned leave and medical leave by considering his representation dated 02.09.2021, within a period of six weeks, without prejudice to the pending criminal proceedings. No costs.

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Index: Yes / No

Speaking order / Non-speaking order

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R.N.MANJULA ,J.

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