



W.A.No.2885 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

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THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.2885 of 2019 and
C.M.P.No.18572 of 2019

- 1.The Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Joint Director,
Central Survey Office,
Chepauk, Chennai – 600 005.

... Appellants

Vs.

N.Dayalan

... Respondent

Prayer : Appeal filed under Clause 15 of Letters Patent Act, against the order dated 27.07.2015 in W.P.No.22531 of 2015 passed by this Court.

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This writ appeal has been directed against the order passed by the Writ Court dated 27.07.2015 made in W.P.No.22531 of 2015.



W.A.No.2885 of 2019

2. The respondent was an employee of the appellant department and due to some disciplinary proceedings, he had been dismissed from service.

3. The said dismissal order since was accepted he did not challenge the same. However, it was the claim of the respondent employee that though he was dismissed from service, he is entitled to get the benefits like General Provident Fund and his contribution towards Special Provident Fund as well as the Encashment of his Earned Leave accrued in his account. For the aforestated purpose, when he approached the appellant department by filing the representation, since the same was not considered, he had approached this Court by filing a writ petition and the said writ petition was allowed by the learned Judge by the order impugned.

4. Assailing the same, Mr.K.V.Sajeev Kumar, learned Special Government Pleader for the appellants would submit that, insofar as the settlement of the said amount under three heads viz., General Provident Fund, contribution towards Special Provident Fund as well as



W.A.No.2885 of 2019

Encashment of Earned Leave is concerned, the appellant department does not have any grievance. However, the learned Special Government Pleader would submit that, insofar as the order given by the learned Judge that amount can be disbursed to the employee with interest is concerned, the belated payment if at all anything to be made by the appellant department is not due to the delay caused by the department but it is the delay on the part of the employee as he had been unauthorisedly absent for several years and therefore that only warranted the initiation of the disciplinary proceedings against him and that ended in the dismissal order, on the dismissal after a long time, he approached the Court of law and therefore that delay caused because of his action cannot be attributable towards the appellant department, for which, the appellant department is not liable to pay any interest, he contended.

5. We have considered the said submissions made by the learned Special Government Pleader for the appellants. We are not impressed with the said submission made by him, for the reason being that, insofar as the entitlement of an employee to get the General Provident Fund amount as well as his contribution towards the Special Provident Fund



W.A.No.2885 of 2019

and also the Encashment of Earned Leave is concerned, that is a right of the employee as those amount are the properties of the employees, that has to be paid to the employee who has been dismissed from service, which is a settled proposition of law. When that being the position, the moment the appellant department dismissed the employee from service these amounts could have been deposited in his bank account and the delay caused that too by driving the party that is the employee to come before this Court and file a writ petition where orders were passed on 27.07.2015, therefore cannot be attributable on the employee, hence the learned Judge has rightly approached the matter and given a direction to pay the said amount with interest.

6. Therefore, we do not find any error in the said order of the learned Judge which is impugned herein. However, since the interest has not been admittedly paid, we feel that such interest shall be paid to the employee by calculating the amount to be settled on the three heads from the date of due till the date of payment and the needful shall be undertaken by the appellant department within a period of twelve weeks from the date of receipt of a copy of this judgment. It is made clear that,



W.A.No.2885 of 2019

the payment if anything has already been paid and received by the employee, that shall be deducted and the remaining amount only shall carry the interest.

7. With these observations and direction, this Writ Appeal is dismissed. No costs. Connected C.M.P. is closed.

(R.S.K., J.) (M.S.Q., J.)

04.07.2023

Index : Yes/No

Speaking Order : Yes/No

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W.A.No.2885 of 2019

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W.A.No.2885 of 2019

04.07.2023