



W.P.(MD)No.13592 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.13592 of 2019

Muthuramalingam

... Petitioner

Vs.

1. The District Collector,
Trichy,
Trichy District.

2. The Revenue Divisional Officer,
Lalgudi Division,
Lalgudi,
Trichy District.

3. The Tahsildar,
Manachanallur Taluk,
Manachanallur,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of ***Certiorarified Mandamus***, to call for the records in connection with the impugned order issued by the 1st respondent in his proceedings in Na.ka.No.C2/50079/2008 dated 08.04.2019 and quash the same as illegal, consequently direct the respondents to give encashment of leave salary



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and payment of special provident fund No.I and II based on the similar orders in WP.NO. 16098 of 2015 and implementation of orders of this Court by the Revenue Divisional Officer, Gopichettipalayam in his proceedings in R.C.No. 1916/2008/A4 dated 18.07.2015 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed to quash the impugned order, dated 08.04.2019 and consequently direct the respondents to grant Encashment of Leave Salary and payment of Special Provident Fund I and II based on the similar orders passed in WP.No.16098 of 2015 and the respondents have also implemented the same, through order, dated 18.07.2015.

2. The petitioner has served as Village Administrative Officer, Solanganallur village, Manachanallur Taluk, Trichy District. Initially, he was appointed on 28.04.1984 and has completed 10 years of service. The petitioner



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was suspended for involvement in a criminal case in Crime No.1168 of 1993 and was acquitted from the said criminal case and was reinstated back into service on 03.03.1993. Again, another one criminal case in Crime No.28 of 2008 was filed under Prevention of Corruption Act and the said criminal case is still pending before the learned Chief Judicial Magistrate, Trichy. In the meanwhile, the petitioner has attained superannuation on 31.07.2011. However, the respondents have not permitted the petitioner to retire from service since the criminal case is pending against the petitioner. Under this circumstance, the petitioner has submitted a representation to the respondents seeking to grant Encashment of Leave salary and payment of Special Provident fund.

3. Heard Mr.A.Rajaram, learned counsel appearing for the Petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents. Perused the material documents available on record.

4. The learned Additional Government Pleader appearing for the respondents submitted that since the petitioner is still facing the criminal case filed by Vigilance and Anti-Corruption Bureau before the learned Chief Judicial



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Magistrate, Trichy, he was not allowed to retire from service. Therefore, the petitioner is not entitled to get any relief. Moreover, he sought time to take instructions from the respondents with regard to the status of the criminal case. This Court is not inclined to adjourn the case, since it is a settled preposition of law that, even if the employee is convicted in the said criminal case, the employee is entitled to get Encashment of Leave Salary and payment of Special Provident Fund. Since in several cases, the High Courts have held that the encashment leave salary and provident fund are the properties belonging to the employee. Therefore, this Court is not inclined to give any adjournment. Following the said judgments, this Court is directing the respondents to disburse the amount of encashment of leave salary and payment of special provident fund, within a period of six weeks, from the date of receipt of a copy of the order.

5. With these directions and observations, this writ petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
ksa

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.13592 of 2019**

06.06.2023