



WEB COPY

W.P.No.37879 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.37879 of 2015

P.Appavoo

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Home Department, Secretariat,
Chennai – 600 009.

2. The Director General of Police,
Chennai.

3. The Superintendent of Police,
Salem, Salem District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to disburse all terminal benefits viz., General Provident Fund, Special Provident Fund, Leave Encashment and provisional pension within a stipulated period as fixed by this Hon'ble Court.

For Petitioner : Mr.Ezhilarasan

For Respondents : Mr.Vadivelu Deenadayalan,
Additional Government Pleader



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ORDER

The petitioner while working as Personal Assistant to Superintendent of Police, Home Department, he was charged for the offences under Sections 420, 466 and 468 read with 120B of IPC on the file of the District Crime Branch, Salem and a charge-sheet was filed in the said crime on 30.12.2009 and the same was taken on file as C.C.No.42 of 2010 on the file of the Judicial Magistrate No.3, Salem.

2. During the pendency of the said criminal proceedings, the petitioner attained the age of superannuation on 31.05.2008. However, he was not permitted to retire from service and he was detained by placing him under suspension by proceedings dated 29.05.2008 i.e., 2 days prior to the date of his superannuation. However, the terminal benefits of the petitioner were not settled even after a lapse more than 7 years and hence, the petitioner approached this Court by filing the present Writ Petition seeking a writ of mandamus to direct the respondents to disburse the terminal benefits i.e., General Provident Fund, Special Provident Fund, Leave Encashment and Provisional Pension etc.,



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3. Today, when the matter is taken up for consideration, it is represented by Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the respondents that all the terminal benefits that are due and payable to the petitioner to the tune of Rs.1,60,098/- were already paid, as early as in the year 2008 itself, i.e., immediately after he attained the age of superannuation and only the earned leave encashment is yet to be paid in favour of the petitioner.

4. On the other hand, the learned counsel for the petitioner placed reliance on a decision of the learned Division Bench of this Court in W.A.No.4018 of 2019 dated 22.11.2019 and contended that the pendency of criminal proceedings cannot be a ground to withhold the amounts due and payable to the petitioner.

5. This Court has carefully gone through the said order dated 22.11.2019 passed by the learned Division Bench of this Court, wherein it was held as under:-

“16. Employees Contribution to Provident



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Fund and leave which has been earned by him (not encashed) are the property of the employee, they cannot be taken away, without due process of law, as enshrined, under Article 300 A of the Constitution of India. There is nothing in the Rules which has been relied by the learned Government Pleader which will enable the Government to withhold the Employee's own contribution to Provident Fund and encashment of accumulated earned leave when the Government servant has attained the age of superannuation. These amounts have to be given to the Government servant, even if the criminal proceedings culminate against the Government servant and the Government servant is terminated from service. If these amounts cannot be forfeited even on termination, there is no justification in withholding the same during the continuation of criminal proceedings after the Government servant has attained the age of superannuation.”

Having confronted with the said order and also taking into consideration the facts and circumstances of the case, the learned Additional Government Pleader also fairly submitted that the petitioner may be entitled for payment of earned leave encashment as well.



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6. In the light of the above and also in the light of the decision of the learned Division Bench of this Court referred to above and also taking into consideration the fact that all the other terminal benefits except earned leave encashment were already paid, there shall be a direction to the respondents to pay the amounts due and payable to the petitioner towards earned leave encashment, consequent upon the petitioner attaining the age of superannuation as expeditiously as possible at any rate within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Connected Miscellaneous Petitions, if any shall stand closed.

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(1/2)

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
Home Department, Secretariat, Chennai – 600 009.



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2. The Director General of Police, Chennai.

3. The Superintendent of Police,
Salem, Salem District.



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MUMMINENI SUDHEER KUMAR, J.

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