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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2046 of 2023
and
W.M.P(MD)No.5501 of 2023

S.M.Rajendran

... Petitioner

Vs

The Commissioner,
Madurai Corporation,
Madurai.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the Impugned order of the Respondent dated 16.11.2022 vide Na.Ka.No.A8/Vo2/016772/2018 and quash the same and further directing the Respondent to release the retirement benefits of the petitioner including, Earned Leave, Non Earned Leave as well as Special Provident Fund amount with interest at 12% till the date of disbursement within stipulated time prescribed by this Court.

For Petitioner : M/s.I.Robert Chandrakumar

For Respondent : Mr.S.Vinayak
Standing Counsel



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ORDER

The instant writ petition has been filed by an Executive Engineer who was working in the respondent Municipal Corporation, challenging the order dated 16.11.2022 wherein the request of the writ petitioner for disbursement of the terminal benefits have been rejected.

2.Due to pendency of the charges, the petitioner was not permitted to retire and he was retained in service by way of G.O.Ms.(2D)No.35, Municipal Administration and Water supply Department(ME-4), dated 10.08.2021. Even as on today, the petitioner has not been permitted to retire and he has been retained in service. In such circumstances, the petitioner has made a request to the respondent corporation to release the terminal benefits. Under the impugned order, the request of the petitioner has been rejected.

3.It is the contention for the learned Counsel appearing for the writ petitioner that the order impugned in the writ petition has been passed relying upon G.O.Ms.No.100, Human Resources Management(FR.II) Department, dated 07.09.2022. However, the petitioner had retired from service four months before that namely on 31.05.2022. Therefore, the said Government order is not applicable to the petitioner.



4.Per contra, the learned Standing counsel appearing for the respondent corporation relying upon the judgment of the Hon'ble Division Bench of our High Court in W.A.(MD)No.264 of 2022 and batch cases, dated 10.10.2023 had contended that the said Government order is applicable to all those who were in service on 07.09.2022. The petitioner being in service on 07.09.2022, is covered by the said Government order.

5.I have carefully considered the submission made on either side and perused the materials available on records.

6.When the petitioner was about to attain superannuation on 31.05.2022, by way of proceedings dated 10.08.2021, the petitioner was not permitted to retire and he was retained in service. The Hon'ble Division Bench of our High Court in the judgment in W.A.(MD)No.264 of 2021 and batch cases, dated 10.10.2023 has categorically held that the said Government order is applicable to all those who were retained in service as on 07.09.2022. The petitioner, having not been permitted to retire and retained in service on 07.09.2022, is covered by the said Government order. As per the said Government order, only the Provident Fund and the Special Provident Fund could be released and other terminal benefits have to be withheld till the completion of the departmental



proceedings.

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7. In view of the above said facts, this Court finds no error in the order impugned in the writ petition. However, the respondent is directed to release Provident Fund and Special Provident Fund, if any, of the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order. As far as the disbursement of the other terminal benefits are concerned, it will depend upon the outcome of the departmental proceedings.

8. With the above said observations, this writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.

07.11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

To

The Commissioner,
Madurai Corporation,
Madurai.



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R.VIJAYAKUMAR, J.

RJR

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