



W.P.(MD).No.13063 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13063 of 2022

A.L.Vijaykumar

... Petitioner

Vs.

1.The Commissioner,
Government Data Center,
Teachers' Provident Fund,
Chennai – 25.

2.The District Educational Officer,
Pudukottai District,
Pudukottai.

3.The Secretary,
Ramanathan Chettiar Higher Secondary School,
Nachandupatti Post,
Thirumayam Taluk,
Pudukottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay the petitioner the benefits of Provident Fund and Encashment of Leaves within a time frame as may be fixed by this Court.



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For Petitioner : Mr.S.Arunachalam
For R-1 and R-2 : Mr.M.Siddharthan
Additional Government Pleader
For R-3 : Mr.R.Karunanidhi

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, seeking direction against the respondents to pay the benefits of Provident Fund and Encashment of Leave to the petitioner.

2. The petitioner was appointed and working as P.G.Assistant (Commerce) in the third respondent School from 29.08.1988. After completion of 22 years of service, he was promoted as Headmaster of the third respondent School with effect from 20.08.2010. Thus, he rendered more than 24 years of service. Based on the disciplinary proceeding initiated against the petitioner, enquiry was conducted and the third respondent passed an order dated 20.02.2019 dismissing the petitioner from service. Though the petitioner was entitled to get his EPF and encashment of leave benefits, the same was not released by the



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respondents. Hence, the petitioner approached this Court by way of filing this Writ Petition.

3. When the matter was taken up for hearing today, Mr.S.Arunachalam, learned counsel for the petitioner submitted that the petitioner was paid with the benefits of the Employees Provident Fund. However, he was not paid with the benefit of encashment of earned leave.

4. Similar issue has been dealt by this Court in ***W.P.No.6536 of 2020 (R.Thambusamy Vs The District Collector, Ariyalur and another)*** dated 08.02.2024 and the relevant portion of the order is extracted hereunder:

"4. In a similar issue involved in W.P.No.2090 of 2020 this court vide its order dated 30.01.2020 has held as under:-

*"5.The issue that has been raised in the present writ petition is squarely covered by the judgment of this Court in the case of **Secretary to Government, Revenue Department,***



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Secretariat, Chennai and others vs.

K.Palaniyandi reported in 2019 (5) CTC 19. In

this judgment, the Division Bench has considered all the earlier judgments on the issue and held that, even in a case where the Government servant has been dismissed, he will be entitled for the earned leave and unearned leave encashments and also for the gratuity and Provident fund contributions. This Court held that these amounts are to be treated as a property owned by a person and therefore, even in the extreme case of dismissal from service, the employee will be entitled for these amounts. In the present case, even though, the petitioner is dismissed from service by the proceedings of the 1st respondent dated 03.09.2019, the petitioner will be entitled for earned leave and unearned leave encashments and also for the gratuity and Provident Fund. The same has to be settled by the respondents.

6.In view of the above discussion, there shall be a direction to the 2nd respondent to settle the earned leave and unearned leave encashments, Special GPF and Gratuity to the petitioner within a period of six weeks from the date of receipt of copy of this order. The



petitioner is directed to make a fresh representation to the 2nd respondent along with a copy of this order."

5. Since the above observation is squarely applicable to the facts of the case this Writ Petition can be disposed in similar lines, except granting of gratuity.

6. In the result, this Writ Petition is partly allowed and the respondents are directed to settle the Earned Leave unearned leave Encashment and special General Provident Fund to the petitioner, within a period of six weeks from the date of receipt of copy of this order. The petitioner is at liberty to make a fresh representation to the 2nd respondent along with the copy of this order. No costs."

5. The judgment cited supra is squarely applicable to the facts of the present case. In the present case, even though, the petitioner was dismissed from service by the proceedings of the third respondent dated 20.02.2019, the petitioner will be entitled for the benefits of encashment of earned leave. Since the provident fund has been settled during the pendency of the Writ Petition, the benefits of encashment of earned leave has to be settled by the respondents.



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6. With the above observations, this Writ Petition is **disposed of** with a direction to the third respondent to send proposal to the second respondent regarding encashment of earned leave payable to the petitioner. On receipt of the same, the second respondent is directed to sanction the earned leave benefits to the petitioner. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

Nsr

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