



W.A.(MD)No.1370 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.10.2025**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.A.(MD)No.1370 of 2021

and

C.M.P(MD)No.5711 of 2021

1.The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
N.P.K.R.R. Maligai,
Chennai - 600 002.

2.The Chief Engineer (Personal),
TANGEDCO,
No.144, Anna Salai,
N.P.K.R.R. Maligai,
Chennai - 600 002.

3.The Superintending Engineer,
Madurai Electricity Distribution Circle/Metro,
TANGEDCO,
K.Pudur, Madurai District - 625 007.

4.The Executive Engineer (Metro),
Madurai North Division,
Madurai Electricity Distribution Circle,
TANGEDCO,
K.Pudur, Madurai District - 625 007.

.. Appellants

Vs.



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... Respondent

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PRAYER:- Writ Appeal is filed under Clause XV of Letters Patent Act, to set aside the order in W.P(MD)No.405 of 2021 dated 11.01.2021 on the file of this Court and allow the Writ Appeal.

For Appellants : Mr.B.Ramanathan

For Respondent : Mrs.P.R.Priya Dharshini
for Mr.I.Pinaygash

J U D G E M E N T

(Judgement of the Court was delivered by **C.KUMARAPPAN, J.**)

The respondents in the writ petition are the appellants herein, and the writ petitioner is arrayed herein as respondent.

2. For convenience sake, the parties will be referred to according to their litigative status before the writ Court.

3. The petitioner has preferred a writ petition directing the respondents 3 and 4 to provide encashment of earned leave, unearned leave, family benefit fund and special provident fund on private affairs, which was denied by the respondents on the ground of pendency of disciplinary proceedings.



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4. The learned counsel appearing for the appellants / respondents would vehemently contend that the order of the learned Single Judge is contrary to both the proceedings of the respondents, and G.O.(Ms)No.100, Human Resources Management (FR.II) Department, dated 07.09.2022. It is the further submission of the learned counsel that the Hon'ble Division Bench in W.A.(MD)Nos.264 of 2022 and batch, vide order dated 10.10.2023, on the basis of the G.O.(Ms)No.100, Human Resources Management (FR.II) Department, dated 07.09.2022, has rejected the claim of the employee for encashment of leave benefits who was facing disciplinary proceedings. Hence, prayed to allow the writ appeal.

5. Per contra, the learned counsel for the petitioner / respondent would submit that in W.A.No.207 of 2016, dated 26.02.2016, this Court has directed to pay leave encashment salary, and the learned Single Judge simply followed the Division Bench Judgement. Hence there is no infirmity in the order of the learned Single Judge and prayed to dismiss the writ appeal.



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6. We have given our anxious consideration to either side submissions.

7. The facts of this case are not in serious dispute. The petitioner was appointed as a Helper in the respondents Board on 26.11.1987. While in service, he was suspended from service on the charge of corruption and a criminal case was also registered against him. Subsequently, he faced trial before the Special Court, Madurai in S.C.No. 19 of 2014, and vide order dated 17.09.2020, he was convicted under the Prevention of Corruption Act. Aggrieved by the same, he preferred an appeal before this Court in CrI.A.(MD)No.294 of 2020 and the same is pending.

8. It appears that, in the meanwhile the petitioner has reached the superannuation on 30.04.2015. Thereafter, he made a representation for leave encashment, which was denied by the respondents. The learned Single Judge by relying upon the earlier Division Bench order in W.A.No. 207 of 2016, dated 26.02.2016, directed the respondents 3 and 4 to consider the claim of the petitioner. But after the order in the above writ



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appeal, the Government came up with an amendment to Fundamental Rules 56(1)(c), wherein, it is stipulated that those who were dismissed or removed from service shall not be eligible for encashment of earned leave and leave on private affairs

9. In the case on hand, after the order of the learned single Judge on 11.01.2021, the petitioner was dismissed from service on 18.01.2021. Therefore, on the ground of dismissal from service, his claim for encashment of leave salary become illegal. Apart from that, such practice was already in existence as per the Board proceedings in (Per.)B.P. (FB)No.75, dated 06.11.1996. It appears that the above decision has not been placed before the learned single Judge. Accordingly, based upon the amended Fundamental Rules, which is squarely applicable to the petitioner, as he was retained in the service, his claim towards the leave encashment is liable to be forfeited. The above view is fortified by the decision of this Court in W.A.(MD)Nos.264 of 2022 and batch, dated 10.10.2023. Therefore, the order of the learned Single Judge is contrary to the rule position.



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10. But, a faint attempt was made by petitioner, that the G.O. (Ms)No.100, Human Resources Management (FR.II) Department, dated 07.09.2022 is not applicable to the petitioner. Such contention was rejected by the Division Bench in W.A.(MD)Nos.264 of 2022 and batch dated 10.10.2023. For ready reference, the relevant portion is extracted hereunder:-

"10. The issue to be considered is whether the amendment will take effect prospectively or retrospectively. In the case on hand, it is not in dispute that the respondents / employees are placed under suspension on the date of their respective age of superannuation and their services are extended under the Fundamental Rules and they are facing departmental disciplinary proceedings. While so, the employer - employee relationship exists between the appellants and the respondents and the respondents / employees are deemed to be in service for all purposes, till such time they are allowed to retire from service by passing final orders by the competent authority. Therefore, the G.O.(MS) No.100, dated 07.09.2022, is applicable to the respondents / employees, as they have not been permitted to retire from service. It is brought to our notice that the benefit of Provident Fund and Special Provident Fund-I and II due to the respondents / employees were already settled and in case not settled, the appellants are directed to settle the Provident Fund and Special Provident Fund-I and II within a period of twelve weeks from the date of receipt of a copy of this Judgment. In this regard, the aggrieved persons are at liberty to submit applications before the competent authority for sanctioning of Provident Fund and Special Provident Fund-I and II.



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11. Regarding the benefit of encashment of earned leave and leave on private affairs, the respondents / employees are at liberty to claim the same, after disposal of the departmental disciplinary proceedings / criminal proceedings and subject to the outcome of such proceedings already initiated and pending against them."

11. In the present case, since the petitioner was subsequently dismissed from service, his claim towards encashment of salary is forfeited. In view of the above legal position, the present writ appeal is allowed and the order 11.01.2021 in W.P(MD)No.405 of 2021 is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.,J.] & [C.K., J.]
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NCC : Yes / No
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