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W.P.(MD) No.13728 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.13728 of 2021

Ammaiyappan

... Petitioner

-VS-

1.The District Collector
Virudhunagar District
Virudhunagar

2.The Revenue Divisional Officer
Sivakasi
Virudhunagar District

3.The Thasildar
Srivilliputtur Taluk
Virudhunagar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining the impugned order passed by the 1st respondent vide his Proceedings in Na.Ka. A8/17897/2021 dated 09.07.2021 and quash the same as illegal and



W.P.(MD) No.13728 of 2021

WEB COPY

consequently direct the 1st respondent to disburse the earned and unearned leave salary benefits to the petitioner.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 09.07.2021, passed by the first respondent, rejecting the petitioner's request to disburse the earned and unearned leave salary benefits.

2. Under the impugned order, the aforesaid request of the petitioner has been rejected, on the ground that he is not eligible to receive the earned and unearned leave salary benefits, since he has been convicted in a corruption case and he has been asked to approach the Sub Collector for the benefit of the general provident funds and special provident funds.

3. Learned counsel for the petitioner drew the attention of this Court to a decision rendered by a Division Bench of this Court, dated



W.P.(MD) No.13728 of 2021

WEB COPY

31.07.2019, passed in W.A.(MD) No.105 of 2019, in the case of the **Secretary to Government, Revenue Department and others vs. K.Palaniyandi**, reported in **(2019) 5 CTC 19** and would submit that as per the said decision, it has been made clear that an employee is entitled to be disbursed with earned and unearned leave salary benefits, even in cases where the employee has been dismissed from service on account of the punishment imposed against the said employee in the disciplinary proceedings.

4. Learned counsel for the petitioner would also submit that in the aforesaid decision, it has been held that the earned leave to the employee's credit is nothing but his property and therefore, the same cannot be deprived, despite the employee's termination from service.

5. In the counter affidavit filed by the respondents before this Court, they have extracted Rule 86(a) of the Fundamental Rules and the same is re-produced hereunder:

“86(a) (i) Explanation – For the purpose of encashment of earned leave and leave on private affairs provided in this rule, the Government servants of the following categories shall also be eligible:-



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W.P.(MD) No.13728 of 2021

(i) cases where the services of a Government servant has been extended in the interest of public service beyond the date of superannuation;

(ii) voluntary or premature retirement;

(iii) where the services of a Government servant are terminated by notice or by payment of pay and allowances in lieu of notice or otherwise in accordance with the terms and conditions of his appointment;

(iv) in the case of death of a Government servant while in service, to the family of the deceased;

(v) in the case of leave preparatory to retirement;

(vi) in cases where the Government servant has been compulsorily retired from service as a measure of punishment under Rule 8 of the Tamil Nadu Civil Services (D&A) Rules.

(vii) in cases where the Government servant has been retired on medical invalidation;

(viii) the Government servants who are discharged owing to the abolition of a permanent post or retrenched due to the abolition of a Government department or scheme. [vide G.O. Ms. No.345, P & AR (Fr. SPL.), dated 31-7-1990, w.e.f. 29-5-1989.]”



W.P.(MD) No.13728 of 2021

WEB COPY

6. As seen from Rule 86(a)(iii) of the Fundamental Rules, it is clear that even if the services of the Government servant are terminated, the Government servant is eligible for encashment of the earned leave. In the case on hand, the petitioner was dismissed from service on account of his conviction in a corruption case. Since the right to encash the earned leave is equated to the right to property, the same cannot be deprived to the petitioner despite he having got convicted in a corruption case and having been dismissed from service.

7. However, under the impugned order, by total non-application of mind to the settled law as well as to Rule 86(a) of the Fundamental Rules, the first respondent has rejected the petitioner's request for disbursement of his earned and unearned leave salary benefits.

8. For the foregoing reasons, the impugned order dated 09.07.2021, passed by the first respondent, has to be quashed and this writ petition has to be allowed.



W.P.(MD) No.13728 of 2021

WEB COPY

9. Accordingly, the impugned order dated 09.07.2021, passed by the first respondent, is hereby quashed and this writ petition is allowed by directing the first respondent to disburse the earned and unearned leave salary benefits to the petitioner, within a period of three months from the date of receipt of a copy of this order. No costs.

12.09.2025

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

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To:

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.
- 3.The Thasildar,
Srivilliputtur Taluk,
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W.P.(MD) No.13728 of 2021

ABDUL QUDDHOSE, J.

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W.P.(MD) No.13728 of 2021

12.09.2025