

W.P.No.25575 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.01.2026

Pronounced on : 30.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.25575 of 2021

A.Venugopal
Formerly Executive Engineer (Agri. Engg.),
Under Suspension,
Krishnagiri.

... Petitioner

vs

1. The Agricultural Production Commissioner
and The Principal Secretary to Government,
Agriculture Department, Chennai – 9.

2. The Chief Engineer,
Agriculture Engineering,
No.487, Anna Salai,
Nandhanam, Chennai – 600 035.

3. The Assistant Accounts Officer/GAD3,
O/o. Accountant General (A & E),
No.361, Anna Salai, Teynampet,
Chennai – 600 018.

... Respondents

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the



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third respondent in Ref. No.GADIII/III/2020-2021/358/48105 dated 16.02.2021 and quash the same and consequently direct the respondents to disburse the encashment of leave salary, un-earn leave salary and special provident fund as per the petitioner's representation dated 19.05.2020 based on the earlier orders of the Hon'ble High Court in W.P.No.16098 of 2015 dated 08.06.2015, W.P. (MD).No.1484 of 2016 dated 29.01.2016 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mrs.V.Yamunadevi
Special Government Pleader for R1 & R2
: Mrs.Hema Murali Krishnan for R3

ORDER

Heard the learned counsel for the petitioner, the learned Special Government Pleader for the first and second respondents and the learned counsel for the third respondent and perused the records.

2. Briefly put the case of the petitioner is that the petitioner while working as Executive Engineer (Agriculture Engineering) at Krishnagiri, was placed under suspension on 28.11.2017, a day before attaining the age of superannuation i.e., 29.11.2017; that he was not permitted to retire from service by



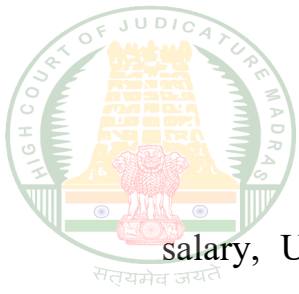
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the first respondent *vide* proceedings dated 30.11.2017; and that the respondents without finalizing the proceedings initiated against him are only paying subsistence allowance.

3. It is the further case of the petitioner that if only the respondents allowed him to retire from service on attaining the age of superannuation, the petitioner would be entitled to receive terminal benefits including encashment of Leave salary, Unearned Leave and Special Provident Fund and other benefits.

4. The petitioner further contended that since, the respondents did not allow him to claim the terminal benefits, he had approached the second respondent and submitted a representation dated 19.05.2020, seeking for disbursement of the amounts due to him; and that the second respondent in turn forwarded the same to the third respondent for issuing further response.

5. It is contended by the petitioner that the third respondent, however, by the impugned proceedings dated 16.02.2021, rejected the claim of the petitioner as forwarded by the second respondent, observing that only those who had approached the Court alone are entitled for disbursement of encashment of Leave



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salary, Unearned Leave and Special Provident Fund and directed the second respondent to forward the order of the Court for necessary action.

6. It is the further case of the petitioner that since, the third respondent, by the impugned proceedings, had made his intention clear, that he would not be paid the Earned Leave and Unearned Leave without the order from this Court, despite this Court having passed orders in similar matters, the petitioner is constrained to approach this Court by the present writ petition.

7. Counter affidavit on behalf of the respondents 1 and 2 is filed.

8. The respondents, by the counter affidavit, contended that the said respondents acting on the representation submitted by the petitioner *vide* its letter dated 22.04.2021, had issued instructions to the second respondent to sanction the withheld General Provident Fund amount, Special Provident Fund, Encashment of Earned Leave and Unearned Leave on Private Affairs to the individuals, except Gratuity as and when representations are received at the Office of the Chief Engineer (Agricultural Engineering) without awaiting for the instructions from the



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Government; and that the Government *vide* letter dated 26.09.2020, has instructed the Chief Engineer (Agricultural Engineering) to sanction the benefits to the petitioner and other individuals, who are similarly placed.

9. The respondents, by the counter affidavit, contended that the second respondent submitted the proposal to the third respondent dated 03.02.2021, for sanction of Encashment of Earned Leave and Unearned Leave on Private Affairs; and that the third respondent *vide* his proceedings dated 16.02.2021, rejected the sanction of Encashment of Earned Leave and Unearned Leave on Private Affairs stating that for the Officers who were sanctioned the said benefits, have obtained the orders from the Court and requested to send the order of the Hon'ble Court in respect of the petitioner for sanction and returned the Service Register.

10. The respondents 1 and 2, by the counter affidavit, further contended that the Government *vide* letter dated 13.12.2021, instructed the Chief Engineer (Agricultural Engineering) to sanction the said benefits to the petitioner and sent the proposal to the third respondent once again on 04.01.2022; that authorization of the third respondent is awaited; and that only after authorization from the third



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respondent, being competent authority to sanction, the benefits can be disbursed to the petitioner.

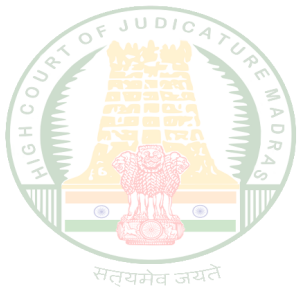
11. No counter affidavit on behalf of the third respondent is filed.

12. The learned counsel appearing for the third respondent however supports the impugned proceedings dated 16.02.2021.

13. I have taken note of the respective contentions as urged.

14. At the outset, it is to be noted that the pension and gratuity are not bounty, but, property and such an hard earned benefit of the employee, cannot be taken away without following due process of law.

15. The Hon'ble Supreme Court in the case of *State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava and another* reported in (2013) 12 SCC 210 after referring to the Judgment in the case of *D.S.Nakara and Ors. Vs. Union of India and other* reported in (1983) 1 SCC 305, had held as under:



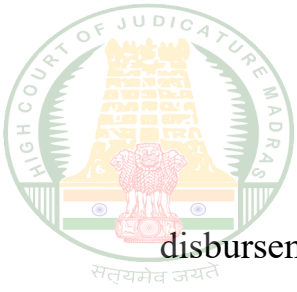
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“It is thus hard earned benefit which accrues to an employee and is in the nature of “property”. This right to property cannot be taken away without the due process of law as per the provisions of [Article 300 A](#) of the Constitution of India.”

16. The aforesaid view of the Hon’ble Apex Court is reiterated in the case of ***R.Sundaram Vs. T.N. State Level Scrutiny Committee*** reported in **2023 SCC Online SC 287**.

17. Further, a Co-ordinate Bench of this Court, by order dated 04.01.2022 in W.P.No.18392 of 2020, following the decision of this Court dated 05.02.2021 in W.P.No.471 of 2021, which in turn followed the decision of the Hon’ble Division Bench of this Court in the case of State of Tamil Nadu and another Vs. the Engineer-in-Chief (Buildings) (W.A.No.1285 of 2019 dated 10.04.2019) and the Secretary to Government and others Vs. V.K.Palaniyandi (W.A.(MD).No.105 of 2019 dated 31.07.2019, held that in the absence of any enabling the provision in the statute, the Government has no authority to withhold the accrued benefits of Government Servants and disposed of the Writ Petition directing the respondents therein to pass appropriate orders with regard to

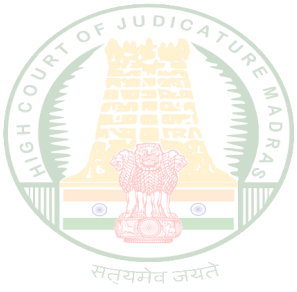


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disbursement of admissible benefits viz., General Provident Fund amount, Special Provident Fund, Encashment of Earned Leave and Unearned Leave on Private Affairs to the petitioner therein within a period of four weeks from the date of receipt of a copy of this order.

18. Since, a Co-ordinate Bench of this Court having regard to the law laid down by the Hon'ble Apex Court whereby it was held that the encashment of earned leave, Unearned leave, Gratuity, constitutes property under Article 300-A of Constitution of India, had held the same cannot be withheld without following due process of law.

19. Thus, the action of the third respondent in issuing the impugned proceedings observing that the amounts are paid only where orders are passed by the Hon'ble Court and directing the second respondent to forward the order of this Court, in the case of the petitioner to enable him to take further action in the matter, in the considered view of this Court amounts to dereliction of duty and irresponsible approach adopted.

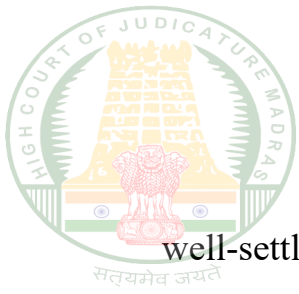


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20. It is on account of the aforesaid action on the part of the third respondent in issuing the impugned proceedings, compelled the petitioner to approach this Court by the present writ petition, without the third respondent himself having made the payment of the aforesaid amounts claimed by the petitioner, having regard to the position of law settled by the orders passed by this Court in similar matters. Thus, this Court has no hesitation to hold that the action of the third respondent in issuing the impugned proceedings observing that the payments are made only where orders are passed by this Court, is highly reprehensible, forcing its former employees like petitioner to approach this Court for the grant of relief.

21. Accordingly, this Writ Petition is allowed and the impugned order is set aside. The third respondent is directed to pass appropriate orders with regard to disbursement of admissible benefits viz., General Provident Fund amount, Special Provident Fund, Encashment of Earned Leave and Unearned Leave on Private Affairs to the petitioner within a period of four weeks from the date of receipt of a copy of this Order.

22. Since, the petitioner is forced to approach this Court by the present writ petition on account of the action of the third respondent, despite the law being



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well-settled on this aspect, this Court is of the view that the third respondent is to be directed to pay costs quantified at Rs.10,000/-, to the **High Court Legal Services Committee** within a period of four weeks from the date of receipt of a copy of this order. Miscellaneous Petitions pending if any shall stand closed.

30.01.2026

Speaking order / Non-speaking order

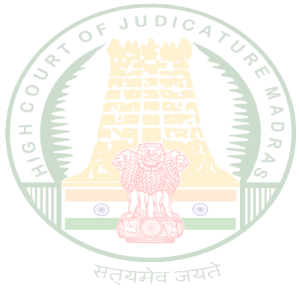
Index : Yes / No

Neutral Citation : Yes / No

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3. The Assistant Accounts Officer/GAD3,
O/o. Accountant General (A & E),
No.361, Anna Salai, Teynampet,
Chennai – 600 018.
4. The High Court Legal Legal Services Committee,
North Fort Road,
High Court Buildings,
Chennai – 600 104.



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T. VINOD KUMAR, J.

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Pre-delivery order made in
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