

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.33656 of 2014

S.Daniel Easter Raj

... Petitioner

vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai-6.

2.The Chief Educational Officer,
Saidapet, Chennai-15.

3.The District Educational Officer,
Chennai North, Egmore,
Chennai-8.

4.The Correspondent,
ELM Fabricious Higher Secondary
School,
Purasawalkam, Chennai-7.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to settle the retirement benefits of the petitioner as on date of retirement on 30.9.2011 including regular pension along with arrears of benefits with interest based on the representation dated 5.8.14 submitted by the petitioner and in the light of orders passed by the Honourable Supreme Court of India in State of Jharkhand Vs.Jitendra Kumar Srivastava & another in Civil Appeal No.6770/13 dated 14.8.13 within a time frame to be fixed by this Court.

For Petitioner	:	Mr.G.Sankaran
For Respondents	:	Mr.S.Gunasekaran, Addl. Govt. Pleader, for R.1 to R.3 R.4 - No appearance.

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents to settle his retirement benefits as on date of retirement on 30.9.2011 including regular pension along with arrears of benefits with interest based on his representation dated 5.8.2014 and in the light of orders passed by the Hon'ble Supreme Court in the case of State of Jharkhand Vs. Jitendra Kumar Srivastava and another in Civil Appeal No.6770 of 2013 dated 14.8.2013 within a time frame to be fixed by this Court.

2. It is the case of the petitioner that he was initially appointed as PG Assistant in ELM Fabricious Higher Secondary School under the management of Tamil Evangelical Lutheran Church in the year 1979 and thereafter, he was promoted to the post of Headmaster of Higher Secondary School in the year 2006. While so, there was a change in the management and thereafter, a complaint was made before the Central Crime Branch, Chennai, alleging mismanagement and misappropriation and diversion of fund by the then Correspondent. In the said complaint, the petitioner has been arrayed as an accused. Consequent to that, the petitioner was issued with an order of suspension. Subsequently, based on his representation, the fourth respondent revoked the order of suspension and re-instated him into service. Thereafter, the petitioner was allowed to retire from service without any demur as per the relieving order issued by the fourth respondent. However, he was not settled with the entire retirement benefits except provident fund and leave on private affairs and earned leave, etc. No departmental proceedings were pending against the petitioner at the time of his retirement. Hence, seeking his retirement benefits, he sent a representation dated 5.8.2014 to the third respondent. Since the same has not been considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

3. Learned counsel appearing for the petitioner submitted that the complaint pending against the petitioner came to be challenged before this Court by filing a criminal original petition and this Court has granted interest stay against the criminal proceedings pending against the petitioner. Further, as per the rulings of the Hon'ble Supreme Court rendered in the case of State of Jharkhand Vs. Jitendra Kumar Srivastava and another in Civil Appeal No.6770 of 2013 dated 14.8.2013, once a Government servant is allowed to retire from service and if there was no criminal case pending against him, he is entitled for payment of entire retirement benefits and pendency of criminal case pending against him would not be an impediment on

the same. So far as the present case is concerned, the petitioner was allowed to retire from service and no departmental proceeding is pending against him. Hence, the petitioner is entitled for payment of retirement benefits and the pendency of the criminal case cannot be the reason to deny his retirement benefits. Thus, he sought for the relief as stated above.

4. I have heard the learned Additional Government Pleader, appearing for the respondents 1 to 3.

5. Though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the first respondent to consider the representation of the petitioner in the light of the decision of the Hon'ble Supreme Court rendered in the case of State of Jharkhand Vs. Jitendra Kumar Srivastava and another in Civil Appeal No. 6770 of 2013 dated 14.8.2013.

6. Accordingly, without going into merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the same regarding the settlement of the petitioner's retirement benefits and pass appropriate orders, on merits and in accordance with law and also in the light of the decision of the Hon'ble Supreme Court rendered in the case of State of Jharkhand Vs. Jitendra Kumar Srivastava and another in Civil Appeal No. 6770 of 2013 dated 14.8.2013, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sbi

To

1. The Director of School Education,
DPI Campus, College Road,
Chennai-6.

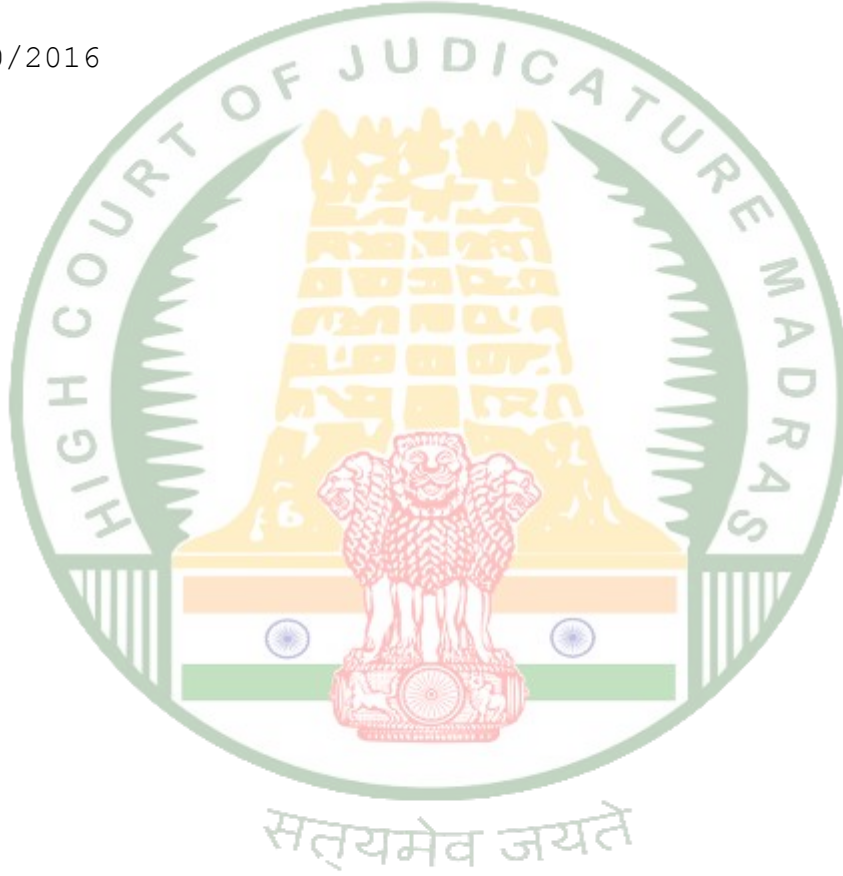
2.The Chief Educational Officer,
Saidapet, Chennai-15.

3.The District Educational Officer,
Chennai North, Egmore,
Chennai-8.

+1 CC to Mr. G. Sankaran, Advocate Sr.No.54849

W.P.No.33656 of 2014

SK (CO)
MD : 04/10/2016



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