

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.34628 of 2016

And

W.M.P.Nos.29833 and 29834 of 2016

L.K.Baktha Gowri

... Petitioner

Vs.

1 The State of Tamilnadu Rep. by
The Secretary to Government,
Education Department,
Secretariat,
Chennai-9.

2 The Principal Accountant General,
O/o.The Accountant General (A&E),
Tamilnadu,
Chennai.

3 The District Adidravidar Welfare Officer,
Cuddalore District,
Cuddalore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus by calling for the records on the file of the 3rd respondent in connection with the order passed by him in his Proc.Na.Ka.No.W5/204/15 dated nil, August 2016 and quash the same and direct the respondents to pay the amount of Rs.2,87,987/- recovered from the gratuity of the petitioner by an order dated 15.03.08 of the 2nd respondent and pay the benefit of G.O.Ms.No.62, dated 9.3.15, finance (CMPC) Dept., with effect from the date of eligibility, i.e., 14.9.90 with all monetary and service benefits.

For Petitioner : Mr.R.Singaravelan
Senior Counsel
for M/s.M.Srividhya

For Respondents : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Certiorarified Mandamus by calling for the records on the file of the third respondent in connection with the order passed by him in his Proc.Na.Ka.No.W5/ 204/15 dated nil, August, 2016 and quash the same and direct the respondents to pay the amount of Rs.2,87,987/- recovered from the gratuity of the petitioner by an order dated 15.03.2008 of the second respondent and pay the benefit of G.O.Ms.No.62, dated 09.03.2015, finance (CMPC) Dept., with effect from the date of eligibility, i.e., 14.09.1990 with all monetary and service benefits.

3.Today, when the matter is taken up for consideration, the learned counsel appearing for the petitioner submitted that the petitioner was selected for appointment to the post of Secondary Grade Teacher by direct recruitment and she joined the service as a Secondary Grade Teacher on 14.09.1970 and was paid Selection Grade Scale of Pay on 14.09.1980 and a Special Grade Scale of Pay in the post of Secondary Grade Teacher on 14.09.1980 and hence, she fall within the purview of G.O.Ms.No.62, dated 09.03.2015 to get the benefit of G.O.Ms.No.216, dated 22.03.1993, but inspite of repeated representations the benefit of G.O.Ms.No.216, dated 22.03.1993 was not extended to the petitioner.

4.The petitioner was promoted to the post B.T.Assistant on 11.06.1992 and her probation was declared to have been completed on the afternoon of 10.06.1994 and was promoted to the post of P.G.Assistant on 20.03.1998. The petitioner made representation seeking for Scale of Pay on par with her junior as petitioner's junior for four years was getting more pay in the cadre of Tamil B.T.Assistant and though the petitioner was serving in the post of B.T.Assistant (English), she was paid lesser pay. Hence, the petitioner made a representation and on her representation, the payment was made to the petitioner on par with her junior. But, unfortunately, on the date of her retirement on 30.06.2006, the amount said to have been paid on par with her junior was branded as excess pay on the misrepresentation of the petitioner and hence, the second respondent adjusted the said excess amount paid to the petitioner from her retirement benefits and thus, a sum of Rs.2,87,987/- was recovered from her retirement benefits.

5. Aggrieved by the same, the petitioner filed W.P.No.34892 of 2015 and this Court vide order dated 30.10.2015, directed the first respondent to consider and dispose of the petitioner's representation dated 22.10.2015 and pass orders, but the third respondent has passed the impugned order. Hence, the petitioner has come forward with this writ petition.

6. Heard the submissions of the learned Senior Counsel appearing for the petitioner and the learned Additional Government Pleader who takes notice for the respondents.

7. This Court vide order dated 30.10.2015 made in W.P.No.34892 of 2015 had directed the first respondent to consider and dispose of the petitioner's representation dated 22.10.2015 and pass orders. Thereafter, the third respondent has passed the impugned order. Now, the only grievance of the petitioner is that the impugned order has been passed without assigning any reason.

8. Keeping the submissions made by the learned counsel for the petitioner, I have carefully gone through the materials available on record. It is the case of the petitioner that based on her representation, she was paid salary on par with her junior, who was equally placed. But, on the date of retirement, the amount was recovered from her terminal benefits stating that the said amount was excessively paid on the misrepresentation made by her. Aggrieved over the same, the petitioner has filed W.P.No.34892 of 2015 and pursuant to the direction given by this Court, now the impugned order has been passed. But, on perusal of the impugned order, I find that in the said order it has not been explained as to how a sum of Rs.2,87,987/- was said to have been excessively paid to the petitioner. The impugned order passed by the third respondent is non-speaking in nature.

9. Hence, this Court sets aside the impugned order and the matter is remanded back to the third respondent, with a direction to pass a detailed order on the petitioner's representation dated 22.10.2015, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above terms, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

- 1 The Secretary to Government
State of Tamilnadu
Education Department,
Secretariat, Chennai-9.
- 2 The Principal Accountant General,
O/o. The Accountant General (A&E),
Tamilnadu,
Chennai.
- 3 The District Adidravidar Welfare Officer,
Cuddalore District,
Cuddalore.

1 cc to Ms.M. Srividhya, Advocate, Sr.56731

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MSM (CO)
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