

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42023 of 2016
and
W.M.P.No.35961 of 2016

Mrs.N.Jothi

... Petitioner

Vs.

1. The District Treasury Officer,
Dharmapuri-636 705.
2. The Commissioner/Director,
Office of the Treasuries and
Accounts Department,
Saidapettai, Chennai-15. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent dated 27.10.2016 bearing Na.Ka.No.5867/2016/F-1, and to quash the same as malafide, contrary to law and against the principles of natural justice.

For Petitioner : Mr.D.Nellaiappan

For respondents : Mr.N.Srinivasan,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent dated 17.10.2016 bearing Na.Ka.No.5867/2016/F-1, and to quash the same.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The petitioner's husband Mr.R.Nandagopal was working as Selection Grade Mathematics Lecturer in the Government Arts College, Dharmapuri. He joined the Department of Collegiate Education on 03.10.1969 as Lecturer in Mathematics. He was promoted to the post of Lecturer Selection

Grade on 15.08.1987 in time scale of pay of Rs.3700-4950-150-5700 by the Principal, Government Arts College, Dharmapuri. While he was in service, he died on 11.04.1990. He had put in 20 years 6 months and 13 days of service as Selection Grade Lecturer.

2-2. The petitioner was drawing the family pension from 11.04.1990 under Pension Payment Order No.202985FA from the District Treasury, Dharmapuri. While so, by the impugned letter Na.Ka.No.5867/2016/F1, dated 27.10.2016, issued by the District Treasury Order, Dharmapuri, a sum of Rs.10,10,720 has been ordered to be recovered from the petitioner, pursuant to the audit objection of the Treasury and Accounts Department. The said objection has been raised in the Treasuries and Accounts Department audit stating that the petitioner's husband had not completed three years of service in the post of Lecturer Selection Grade, as per Government Letter (2D) No.46, Higher Education Department (H1) dated 13.04.2010. According to the petitioner, her claim was not based on the said Government Letter since she was not entitled for such revision because her husband had less than 3 years of service as SG Lecturer i.e., 2 years 7 months 27 days.

2-3. Prior to the introduction of Revised UGC scales with effect from 01.01.1986, there were three categories of teaching staff, besides Tutor/Demonstrator.

1. Assistant Professor
2. Professor
3. Principal

Consequent to the introduction of revised UGC scales with effect from 01.01.1986, the following designations were given_

- | | |
|------------------------|------------------------------|
| 1. Assistant Professor | - Lecturer |
| 2. Professor | - Lecturer (Senior Scale) |
| 3. Professor | - Lecturer (Selection Grade) |
| 4. Principal | - Principal (1) & Principal |

As the scheme of Selection Grade came only in the Revised UGC Scale of Pay effective from 01.01.1986, those who retired prior to 01.01.1986 either as Assistant Professor or Professor or even before 31.12.1988 would not have 3 years of service as SG Lecturer to become entitled for the above revision as per Govt. Letter (2D) No.46, Higher Education Department (H1) dated 13.04.2010. Therefore, the seniors, who retired before 31.12.1988 without completing three years of service as SG Lecturers, were at a loss even though they had more than 33 years of service as Assistant Professor or Professor prior to 01.01.1986 or SG Lecturer and retired upto 31.12.1988, and they were badly affected without this revision. However, subsequently, consider the anomalies, the Government has issued orders in Govt. Letter No.3391/E2/2012-2 Higher Education (E2), dated 26.07.2012, clarifying the issue to the effect that a Lecturer who has completed a total service of 19

years from his initial appointment to the post of Lecturer (Selection Grade) is entitled for the pay scale of Rs.37400-67000 + AGP 9000. The case of the petitioner's husband is also covered by the said clarification issued by the Government and as such, there is no irregularity in granting the revised family pension to the petitioner and there is no overpayment at all to the petitioner. Hence, challenging the impugned order, the petitioner has filed the present writ petition.

3.Though the writ petition has been filed seeking for a larger relief, when the matter is taken up for consideration, the learned counsel for the petitioner submitted that the petitioner is prepared to give a representation to the respondents in respect of the objection raised by the Treasuries and Accounts Department and if a direction is issued to the respondents to consider the same, it would suffice.

4.Heard the learned Additional Government Pleader appearing for the respondents also and perused the materials available on record.

5.In view of the limited scope of the prayer sought for by the learned counsel for the petitioner, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the petitioner to give a representation to the 1st respondent in respect of the objection raised by the Treasuries and Accounts Department, along with a copy of this order, within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the 1st respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter. Till such time, the respondents are directed not to recover the amount from the petitioner.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The District Treasury Officer,
Dharmapuri-636 705.

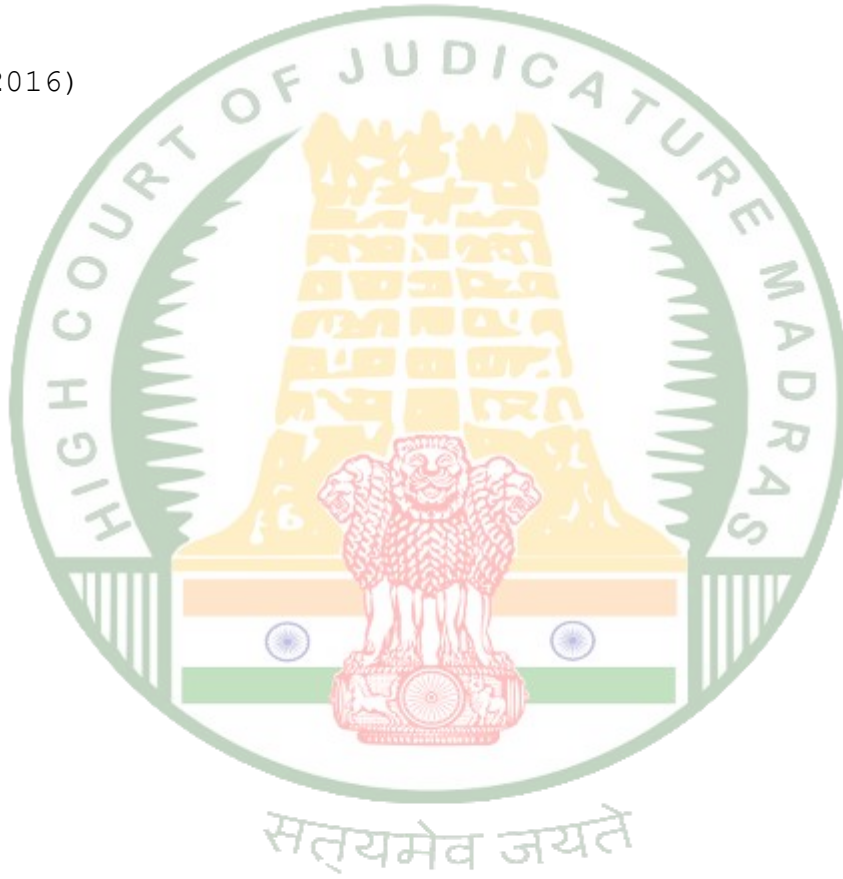
<https://hcservices.ecourts.gov.in/hcservices/>

2. The Commissioner/Director,
Office of the Treasuries and
Accounts Department,
Saidapettai, Chennai-15.

+1cc to Mr.D.Nellaippan, Advocate, S.R.No.71496

W.P.No.42023 of 2016
and
W.M.P.No.35961 of 2016

KJI (CO)
CA(20/12/2016)



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