



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.10618 of 2016
and
WM.P. (MD) .Nos.8238 & 8239 of 2016

R.Sudalai Veerapandian

... Petitioner

Vs.

- 1.The Principal Accountant General (A & E)
Accountant General Office,
Chennai-18.
 - 2.The Director of School Education,
Higher Secondary Department,
College Road,
Nungambakkam, Chennai-6.
 - 3.The District Treasury,
Thoothukudi
rep. By District Treasurer Officer,
Thoothukudi District.
 - 4.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.
 - 5.The District Elementary Educational Officer,
Thoothukudi District,
Thoothukudi.
- ... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent pertaining to its order bearing Na.Ka.No. 6746/J1/2016 dated -04-2016 and to quash the same, consequently direct the respondents to pay the pensionary benefits in accordance with the order passed by this Hon'ble Court in W.P.No.13677 of 2011 dated 20.12.2011.

For Petitioner :Mr.S.C.Herold Singh

For Respondent :Mr.P.Gunasekaran for R-1

Mr.V.Muruganandham

Additional Govt. Pleader for RR-2 to 5



O R D E R

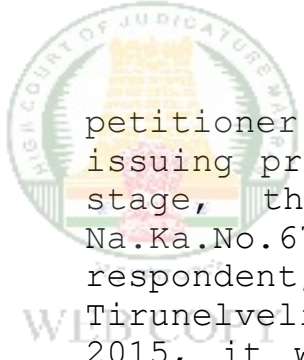
Heard both sides.

2. According to the petitioner, at the time of his retirement on 31.05.1995, he was discharging his duties as a Special Grade Secondary Grade Teacher at Chekarakudi Government Higher Secondary School at Tuticorin. Since there was no promotional opportunity to him in the higher secondary school, at that relevant point of time, G.O.No.216, dated 22.03.1993 was in force. However, it is the case of the petitioner that the second respondent had not implemented the same in his case. In fact, a teacher by name N.Govindarajan (similarly placed like him) approached the State Administrative Tribunal, wherein the Government was directed to extend the benefit of Government Order and the same order was challenged before this Court in writ petition and the same was also dismissed. Thereafter, the said N.Gonvindarajan filed a contempt petition and subsequently, he obtained the benefits of the G.O.216 dated 22.03.1993.

4. The stand of the petitioner is that in similar circumstance, the Government had extended the same benefits to another teacher viz., Jumbukumaran, as per G.O.No.284, dated 30.09.2010. Inasmuch as the petitioner is similarly placed, his categorical plea before this Court is that he is entitled to the said benefits and on 14.10.2011, he sent a representation to the respondents, which evokes no positive response. Therefore, the petitioner filed a Writ Petition (MD).No.13677 of 2011 and on 20.12.2011, when batch of writ petitions came up before this Court, this Court, after taking into account of the Government Orders etc, directed the respondents, on receipt of the applications, with necessary details, to dispose of their applications by extending the aforementioned benefits within a period of 4 months from the date of receipt of the applications.

5. In the aforesaid background, pursuant to the orders of this Court, the respondent disbursed the revised pension to the petitioner as per the Government Orders and as per the Order of this Court. But to the shock and surprise of the petitioner, the third respondent/District Treasury Officer, Tuticorin, without issuing notice and providing opportunity to the petitioner, passed the impugned order dated .-04-2016 stating that as per the annual report of the year 2015, it was found that an excess sum of Rs.2,93, 219/- was paid to him and directed the petitioner to pay the aforesaid amount to the account of the Government within 10 days.

6. The primordial contention advanced on behalf of the petitioner is that the impugned notice dated -4-2016 is not valid inasmuch as the impugned order dated -4-2016 was issued to the



petitioner without providing an opportunity and also by not issuing prior notice, the impugned order is bad in Law. At this stage, this Court, on perusal of the impugned order, in Na.Ka.No.6746/J1/2016 dated -4-2016, passed by the third respondent, is of the considered view that based on the Tirunelveli Zonal Joint Director's Annual Inspection for the year 2015, it was found out that a sum of Rs.2,93,219/- was paid as excess pension to the petitioner and further the said amount was directed to be paid in Government Account within 10 days, failing which, as per G.O.No.702 Finance (Pension) Department, dated 02.10.1988, recovery would be ordered. Suffice it for this Court to make a significant mention that the proceedings of the third respondent dated -4-2016 in requiring the petitioner to remit the excess pension sum of Rs.2,93,219/- within 10 days with the Government Treasury, without issuance of prior notice and also without providing necessary opportunity of hearing to the petitioner, is not correct in the eye of Law because of the simple reason that the impugned proceedings of the third respondent dated -4-2016, in reality, affects the petitioner and therefore, when the impugned order dated -4-2016 of the third respondent relates to the civil consequences of the petitioner, without providing an opportunity and also without issuance of notice and without hearing the objections of the petitioner either in writing or in person, the same cannot be sustained. As such, this Court interferes with the said order dated -4-2016 passed by the third respondent and sets aside the same. Consequently, the writ petition succeeds.

7. In fine, the writ petition is allowed. The impugned order dated -4-2016 of the third respondent is set aside by this Court for the reasons assigned in this writ petition. It is abundantly made clear that allowing of writ petition by this Court will not preclude the third respondent to proceed further in the matter afresh, of-course after providing necessary opportunity to the petitioner by adhering to the principles of Natural Justice and by following the well-laid down principles of Law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.The Principal Accountant General (A & E)
Accountant General Office,



2.The Director of School Education,
Higher Secondary Department,
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3.The District Treasurer Officer,
District Treasury,
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Thoothukudi District.

4.The Chief Educational Officer,
Thoothukudi District,
Thoothukudi.

5.The District Elementary Educational Officer,
Thoothukudi District,
Thoothukudi.

+1cc to Mr.S.C.Herold Singh, Advocate SR.No.30956

+1cc to special Government Pleader SR.No.31162

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