

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.2491 to 2493 of 2010 and
M.P.Nos.1 +1+1 of 2010

W.A.No.2491 of 2010

1.The Accountant General (A& E)
O/o.The Accountant General
No.361, Anna Salai
Chennai - 18
Tamil Nadu ...Appellant/1st Respondent

Vs

1.D.Mahalingam ... Respondent/Petitioner

2.The Director of School Education
Chennai-6

3.The District Educational Officer
Dharmapuri District
Dharmapuri- 636 701 ...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, to
set aside the order dated 30.10.2009 and made in W.P.No.18188 of
2009.

W.A.No.2492 of 2010

1.The Accountant General (A& E)
O/o.The Accountant General
No.361, Anna Salai
Chennai - 18
Tamil Nadu ...Appellant/1st Respondent

Vs

1.D.Radhakrishnan ... Respondent/Petitioner

2.The Director of School Education
Chennai-6

3.The District Educational Officer
Dharmapuri District
Dharmapuri- 636 701

...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, to set aside the order dated 30.10.2009 made in W.P.No.18189 of 2009.

W.A.No.2493 of 2010

1.The Accountant General (A& E)
O/o.The Accountant General
No.361, Anna Salai
Chennai - 18
Tamil Nadu

...Appellant/1st Respondent

Vs

1.B.Thangavel ... Respondent/Petitioner

2.The Director of School Education
Chennai-6

3.The District Educational Officer
Dharmapuri District
Dharmapuri- 636 701

...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, to set aside the order dated 30.10.2009 made in W.P.No.18190 of 2009.

Writ Petition Nos 18188 to 18190/09

Writ Petitions under Article 226 of the Constitution of India, praying for the records issued by the first respondent in No.AG(A&E)/Pension 10/V/M101-866/07-08/307; dated 09.10.2007, No.AG(A&E)/Pension 10/V/R63-S96/07-08/235; dated 16.08.2007, No.AG(A&E)/Pension P10/4/T39-1339/RTD/2006-2007/362; dated 11/12/2006 respectively and quash the same in so far as reducing one increment from 17.06.2002 and the consequent fixation of pension and other benefits and to direct the respondents to sanction full pension and other benefits on the basis of scale of pay last drawn by the petitioners on their retirement with arrears with interest.

For Appellant : Mr.V.Vijay Shankar
in all the appeals

For Respondents: Mr.S.Ramesh for R1

in all the appeals

Mr.V.Anandamorthy
Special Government for R2 and R3

J U D G M E N T

K.K. SASIDHARAN, J.

These intra court appeals are directed against the order dated 30 October 2009 in W.P.Nos.18188 to 18190 of 2009 quashing the proceedings initiated by the appellant for reduction of increment, fixation of pension and recovery of excess amount paid to the employees.

2.Heard the learned counsel for the appellant and the learned counsel for the first respondent in the respective intra court appeals.

3.The first respondent in the respective appeals (hereinafter referred to as the 'employees') were working as Headmaster of High School. They were appointed to the post on transfer from other services. The employees have served in the post of Headmaster and retired from service on attaining the age of superannuation. When they got promotion to the post of Headmaster, their pay was fixed for the post under Rule 22(B) of the Fundamental Rules.

4.The appellant, long after the retirement of the concerned employees, initiated proceedings for fixation of their pay on the ground that earlier fixation was wrong.

5. The appellant maintained that the pay of the employees ought to have been fixed on a lower scale on account of a Circular dated 28.08.2004. According to the appellant, the employees have all retired after 2000 and as such the circular ought to have been taken note of while fixing the salary.

6. The appellant has no case that the employees misrepresented the facts before the employer and got their pay fixed. There was no contribution on the part of the employees in the matter of fixation of pay. In fact the employer has not taken any action for re-fixation of the pension of the concerned employees. It was only after the retirement of the employees on attaining the age of superannuation, the appellant initiated action and that too, when the pension papers were sent for approval. There is no question of re-fixing the pay long after the retirement of the employee. This aspect was considered by the learned single Judge and the impugned proceedings were rightly quashed. We do not find any error or illegality in the orders warranting interference.

In the result, intra court appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

TO:

1.The Accountant General (A& E)
O/o.The Accountant General
No.361, Anna Salai
Chennai - 18
Tamil Nadu

2.The Director of School Education
Chennai-6

3.The District Educational Officer
Dharmapuri District
Dharmapuri- 636 701

+ 1 cc to Mr.V.Vijay Shankar, Advocate,SR.84091

+ 1 cc to M/s.S.Ramesh, Advocate,SR.84606

+ 1 cc to The Govt.Pleader, SR.84366

W.A Nos.2491 to 2493 of 2010 and
M.P.Nos.1 +1+1 of 2010

SS (CO)
NR 15/12/2017

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