

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.35794 of 2003 and
WP.MP.No.43499 of 2003

S.Swaminathan

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
by its Secretary,
Department of Higher Education,
Fort St. George,
Chennai-9.

2.The Director of Collegiate Education,
Chennai-6.

3.The Joint Director of Collegiate Education,
Madurai-20.

4.The Principal Accountant General (A&E),
Chennai.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings dated 25.6.2003 in P22/4/545-268/REV/2003-2004/1252, 1253, 1254 issued by the fourth respondent and quash the same and direct the fourth respondent to continue to pay the pension, family pension as before.

For Petitioner : Mr.R.Subramanian

For Respondents : Mrs.M.E.Rani Selvam
Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking a writ of certiorarified mandamus to quash the proceedings of the fourth respondent dated 25.06.2003 and to direct the fourth

respondent to pay the pension as paid earlier.

2. The case of the petitioner is that he was retired as Selection Grade Lecturer in Economics from C.P.A. College, Bodinayakanoor on 31.05.1997 after attaining superannuation. The pension admissible to him was Rs.6,144/- with effect from 01.11.1996. From 01.01.1996, the College teachers were paid U.G.C. scales. Accordingly, the Central Government agreed to meet 80% of additional expenditure for five years and 20% by the State Government. After five years, the State Government undertook to pay. When there was some anomaly qua fixation of pay of Readers/Selection Grade Lecturers, by a letter dated 24.03.1999, the Central Government clarified the same. By a proceedings dated 29.10.1999, the first respondent clarified that the Selection Grade Lecturers drawing pay at Rs.3700-5700, should be fixed at Rs.14,944/- in the revised pay.

3. According to the petitioner, the date of increment would be the date on which teachers would have drawn increment if they continued in the old scale. The teachers were getting the scale and increment. But the second respondent vide proceedings dated 26.09.2002 informed that the increment should be postponed by one year due to audit objection. Challenging the proceedings of the second respondent, W.P.No.5626 of 2003 has been filed by the teacher's association and the said writ petition was admitted and also interim stay was granted. While things stood thus, the fourth respondent, by the impugned proceedings, reduced the pension from Rs.6144/- to Rs.5976/- and the family pension from Rs.5976/- to Rs.4482/-. Challenging the same, the present writ petition has been filed.

4. No counter affidavit has been filed by the respondents.

5. I heard Mr.R.Subramanian, learned counsel for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

6. The learned counsel for the petitioner submitted that the fourth respondent has failed to see that the proceedings dated 26.09.2002 covers all the Selection Grade Lecturers whether working or retired. He submitted that by the proceedings dated 29.10.1999, the first respondent clarified that the date of next increment would be the date on which the teachers would have drawn increment, if they have continued in the old scale. While so, the fourth respondent arbitrarily reduced the pension as well as the family pension and the same needs to be set aside.

7. On a perusal of the impugned proceedings, it is seen that the fourth respondent reduced the pension of the petitioner and

also the family pension without assigning any reason. In the proceedings impugned, the fourth respondent has simply stated that "pension/family pension admissible to Shri.Swaminathan, who is drawing pension from S.T.Bodinaickanur/District Treasury has since been revised".

8. It appears that on 09.08.2003 and 11.08.2003, the petitioner sent a letter/representation to the fourth respondent as well as the third respondent to stop recovery. In the said letters, the petitioner also stated that the fourth respondent was acting contrary to the order of this Court. It appears that the respondent authorities have not taken any decision on the said letters/ representations.

9. On a perusal of the records, this Court finds that the writ petition was admitted on 08.12.2003 and interim stay of the impugned proceeding was granted on 08.12.2003, which was later made absolute on 19.07.2004. Till date the interim order is in operation and no steps had been taken by the respondent authorities to vacate the same.

10. It is apposite to note that since the interim order is in operation and letters sent by the petitioner were not considered by the respondents 3 and 4, it would be appropriate to remit the matter back to the authorities concerned for passing suitable orders. If the matter is remitted back to the respondent authorities, no prejudice would be caused to them, as nothing has been elaborated in the impugned proceedings for revising the pension and family pension respectively.

11. For the foregoing reasons, the impugned proceedings of the fourth respondent is set aside and the matter is remanded back to the respondent authorities to consider and pass appropriate orders, after giving opportunity of personal hearing to the petitioner, within the period of three months from the date of receipt of a copy of this order.

12. The writ petition is disposed of in terms aforesaid. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

VS

To

1.The Secretary,
Department of Higher Education,
Fort St. George,
Chennai-9.

2.The Director of Collegiate Education,
Chennai-6.

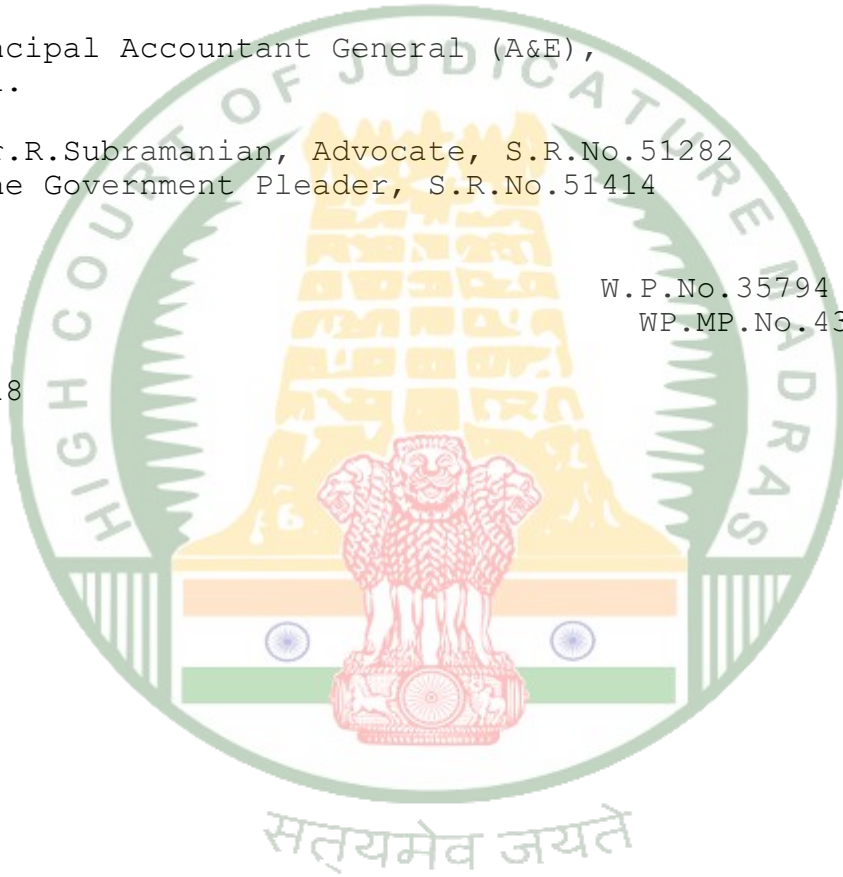
3.The Joint Director of Collegiate Education,
Madurai-20.

4.The Principal Accountant General (A&E),
Chennai.

+lcc to Mr.R.Subramanian, Advocate, S.R.No.51282
+lcc to the Government Pleader, S.R.No.51414

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CS/09/07/18



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