

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.1076 of 2013

K.Rajendran

... Appellant

-vs-

1.State of Tamil Nadu rep. By Secretary,
Education Department,
Fort St. George, Chennai - 9.

2.The District Educational Officer,
Office of the District Educational
Officer, Kancheepuram.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Kancheepuram.

.... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 30.01.2013 made in W.P.No.31405 of 2005.

WP.No. 31405 of 2005 Prayer: The Writ Petition is filed under
Article 226 of the Constitution of India for issue of Writ of
Mandamus forbearing the respondents from making any recovery
from the pension and pensionary benefits of the petitioner and
consequently refund the recoveries effected from the pension and
pensionary benefits of the petitioner from October 2002.

For Appellant : Ms.A.V.Bharathi
For Respondents: Mr.K.Karthikeyan,
Govt. Advocate

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH,J.]

The appellant is the writ petitioner. The writ petition has
been filed for a writ of mandamus forbearing the respondents
from making any recovery from the pension and pensionary
benefits with further direction to refund the recoveries already
effected.

2.Learned single Judge was pleased to dismiss the writ petition inter alia holding that separate orders have been passed with respect to recovery. The appellant did not challenge those orders but sought for recovery of Rs.2,500/- per month from September, 2004 onwards by letter 23.06.2004. Accordingly, some amounts have been recovered and the other are under the process of being recovered. As per the aforesaid orders, wrongly fixed pay and consequent payment were directed to be recovered.

3.Learned counsel appearing for the appellant would submit that inasmuch as the appellant is not at fault, no recovery can be made.

4.We are not inclined to accept the aforesaid submission. It is not as if in all circumstances the recovery can be directed not to be given effect to. In the case on hand, the appellant himself has given his consent for recovery and part of the recovery has already been made. There is no dispute that the fixation of pay was wrong.

5.In such view of the matter, we are of the view that the order of the learned single Judge cannot be termed as illegal or incorrect, particularly when the appellant has not chosen to challenge the orders passed with respect to recovery and the wrong fixation of pay. Accordingly, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Education Department,
Fort St. George, Chennai - 9.

2.The District Educational Officer,
Office of the District Educational
Officer, Kancheepuram.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Kancheepuram.

+1cc to Mr.A.V.Bharathi, Advocate, S.R.No.84534
+1cc to the Government Pleader, S.R.No. 85106

W.A.No.1076 of 2013

SPD(CO)
GN(08/01/2019)