

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.10.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34776 of 2013
and
M.P.No.1 of 2013

A.Margaret Mary

.. Petitioner

Vs.

- 1.Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
 - 2.The Director,
Directorate of Elementary Education Department,
D.P.I. Compound, College Road,
Nungambakkam, Chennai - 600 006.
 - 3.The District Elementary Educational Officer,
Trichirappalli.
 - 4.The Additional Elementary Educational Officer,
Thiruverumbur,
Kattur, Trichy - 19.
- .. Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus to call for the records on the file of the 1st Respondent in G.O.(Ms) No.314, School Education (P2) Department, dated 26.12.2012 to quash the same in so far as the petitioner is concerned as it restricting the Provident fund amount for a period of 1999-2000 to 2005-2006 in respect of Para 3 of the said G.O. and consequently direct the respondents to sanction the Teachers provident fund amount to the Petitioner as full (Provident Fund Account No.214627) along with 18% interest p.a.

For Petitioner : Mr.K.Sannjay

For Respondents : Mr.K.Balamurugan
Government Advocate
for respondents 1 to 3

ORDER

This writ petition has been filed by the petitioner seeking issuance of a writ of certiorarified mandamus to call for the records on the file of the first respondent in G.O.Ms.No.314, School Education (P2) Department, dated 26.12.2012, to quash the same in so far as the petitioner is concerned as it restricting the Provident fund amount for a period of 1999-2000 to 2005-06 in respect of Para 3 of the said government order and consequently direct the respondents to sanction the Teachers provident fund amount to the petitioner as full (Provident Fund Account No.214627) along with 18% interest per annum.

2. The facts in a nutshell are as under: The petitioner was initially appointed as a Secondary Grade Teacher in the year 1974 at St.Thomas Middle School (Government Aided), Pattukkottai, Thanjavur District. Thereafter, she resigned the job and joined at St.Philomena's Aided Middle School, Kattur, Trichy District as a Secondary Grade Teacher and joined in the year 1978, where she continued to discharge her duties until retirement.

3. It is the case of the petitioner that on 28.2.2010 she was permitted to retire from service by the third respondent as well as the school management on attaining the age of superannuation and from the date of her retirement, she received pension and other monetary benefits, but the Teachers' Provident Fund amount was not paid to the petitioner by the respondents till date.

4. It is stated that during August 2011 some persons have embezzled Teachers' Provident Fund to the tune of Rs.33.30 lakhs, but the respondent authorities have not taken any steps against such persons. Despite representations sent to the respondent authorities, no action was taken. Thereafter, the petitioner filed W.P.No.34791 of 2012, which was disposed of by order dated 21.12.2012 by directing the respondent authorities to consider the representation dated 11.9.2012.

5. It is averred that thereafter the first respondent has issued G.O.Ms.No.314, School Education (P2) Department, dated 26.12.2012, directing respondents 3 and 4 to sanction the Teachers' Provident Fund amount to those

who have been affected and further directing to grant final closure amount of provident fund to the retired teachers after getting appropriate affidavit from the provident fund holders to close the account without reference to the transaction from the year 1999-2000 to 2005-2006 as per the G.O.Ms.No.214, School Education Department, dated 29.12.2011.

6. Seeking quashment of paragraph (3) of the G.O.Ms.No.314, School Education (P2) Department, dated 26.12.2012, the present writ petition is filed.

7. The learned counsel appearing on behalf of the petitioner submitted that the government order in G.O.Ms.No.314, School Education (P2) Department, dated 26.12.2012 needs to be quashed inasmuch it states that remaining amount has to be paid without reference to the period from 1999-2000 to 2005-2006. He further contended that the insistence on giving an affidavit for receiving the remaining provident fund amount is uncalled for. He added that if the full amount is not paid to the petitioner, she will be put to serious loss and undue hardship.

8. Per contra, the learned Government Advocate appearing on behalf of respondents 1 to 3 submitted that criminal cases have been registered against persons who had swindled Teachers' Provident Fund money and the said criminal cases are pending.

9. He further contended that pursuant to the order dated 21.12.2012 passed in W.P.No.34791 of 2012, the first respondent permitted the third respondent to sanction the Teachers' Provident Fund Loan and part final withdrawal and also final closure of Teachers' Provident Fund subject to the following conditions:

(a) Speedy action should be taken to get back the lost amount in Teachers' Provident Fund account due to some irregularities after the disposal of the criminal cases to the credit of the Government account;

(b) The account of Teachers' Provident Fund of the Teachers who retired from service may be closed after getting the affidavit from the affected teachers without taking the accounts from 1999-2000 to 2005-2006.

10. He further contended that when the fourth respondent sanctioned a sum of Rs.4,54,508/- as final closure of the Teachers' Provident Fund to the petitioner, the petitioner refused to receive the same and in this

context, it is submitted that only after the disposal of the criminal cases the accounts of the Teachers' Provident Fund account of the affected persons may be settled.

11. I heard Mr.K.Sanjay, learned counsel for the petitioner and Mr.K.Balamurugan, learned Government Advocate for the respondents 1 to 3 and perused the documents available on record.

12. The facts are not much in dispute. Pending writ petition, it is stated vide letter Na.Ka.No.327/Aa1/2013, dated 14.11.2017, that a sum of Rs.4,54,826/- had been deposited in the account of the petitioner through ECS upon obtaining an affidavit from her in this regard. It is also recorded in the said letter that the Government Advocate had specifically opined that the stand of the respondent authorities that the balance amount due shall be paid based on the outcome of the pending criminal cases is not tenable. Based on such opinion and earlier orders of this Court, it is stated that the government had been addressed to release the balance amount of Rs.1,53,278/- to the petitioner. However, the Government is yet to pass orders on the same.

13. In my considered opinion, it does not lie in the mouth of the respondent authorities to state that since criminal cases are pending with regard to embezzlement of Teachers' Provident Fund, till the said cases are disposed of, the fund will not be released to the petitioner. The petitioner, being indisputably a beneficiary of the said Teachers' Provident Fund, cannot be denied the benefits due to him on the ground that some third parties have embezzled the said funds and criminal cases are pending.

14. In the result:

(a) the writ petition is allowed by quashing G.O.(Ms) No.314, School Education (P2) Department, dated 26.12.2012 passed by the 1st respondent in so far as the petitioner is concerned;

(b) the respondents are directed to sanction the Teachers Provident Fund amount to the petitioner as full (Provident Fund Account No.214627) with interest at the rate of 6% per annum and to pay the same to the petitioner;

(c) the said exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.

2.The Director,
Directorate of Elementary Education Department,
D.P.I. Compound, College Road,
Nungambakkam, Chennai - 600 006.

3.The District Elementary Educational Officer,
Trichirappalli.

4.The Additional Elementary Educational Officer,
Thiruverumbur,
Kattur, Trichy - 19.

+1cc to Mr. K.Sannjay, Advocate SR.No. 68591

W.P.No.34776 of 2013 and
M.P.No.1 of 2013

ASK(01/11/2018)



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