

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2045 of 2018
and

C.M.P.Nos.16196 & 16197 of 2018

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Education Department,
Fort St. George, Chennai-9.
2. The District Treasury and Accounts,
2nd Floor, Panagal Buildings,
Saidapet, Chennai-15.
3. The District Treasury Officer,
Nagapattinam.
4. The Assistant Treasury Officer,
Mayiladuthurai.
5. The District Elementary Education
Officer, Nagapattinam. :Appellants

Versus

1. R.Venkatachalam
2. The Principal Accountant General (A&E),
Office of the Accountant General,
Teynampet, Chennai-18. :Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 15.2.2017 passed in W.P.No.26423 of 2016 on the file of this court.

Prayer in W.P.No.26423 of 2016:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with both impugned orders passed by the 5th respondent in Na.Ka. No. 508/2016/ A3 dated 23.05.2016 and Quash the same and Direct the respondents

to restore pension of the petitioner as fixed by the Assistant Elementary Officer Myiladuthurai by an order dated 12.2.2010 by refunding the recovered amount to the petitioner.

For appellants : Mr.C.Munusamy
Special Government Pleader

For R1 : Mr.S.N.Ravichandran

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the appellants and Mr.S.N.Ravichandran, learned counsel, who takes notice on behalf of the first respondent/writ petitioner.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in allowing the writ petition and thereby quashing the order impugned in the writ petition which sought to recover the excess pension paid to him.

3. It appears that the petitioner, being a retired Teacher was drawing pension under Pension Payment Order No.9244607/EDN and whileso, on the report of the inspection cell from the office of the Director of Treasuries and Accounts, Chennai, it appears to had been found that the first respondent herein was paid a sum of Rs.3,51,434/- in excess as against the pension he ought to have been paid and therefore, proceeded to recover and re-fix the pension which was challenged in the writ petition.

4. The learned Single Judge, on appreciating the factual aspects and having found that the wrong fixation of pension was not due to any suppression or mistake on the part of the first respondent herein, rightly directed for refund of the amount deducted, while permitting for re-fixation of the pension, by relying upon the principles laid down in STATE OF PUNJAB AND OTHERS v. RAFIQ MASIH (WHITEWASHER) ((2014) 8 SCC 883).

5. Therefore, we do not find any illegality or infirmity in the order passed by the learned Single Judge. Accordingly, the writ appeal is dismissed. No costs. The connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Principal Secretary to Government,
Education Department,
Fort St. George, Chennai-9.
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5. The District Elementary Education
Officer, Nagapattinam.
6. The Principal Accountant General (A&E),
Office of the Accountant General,
Teynampet, Chennai-18.

SS (CO)
CSL/30.11.2018

W.A.No.2045 of 2018

सत्यमेव जयते

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