

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN**W.P(MD) .No.7500 of 2016**

S.Jeyamary

... Petitioner

Vs.

1) The District Elementary Educational Officer,
Sivagangai District,
Sivagangai.

2) The Additional Assistant
Elementary Educational Officer,
Ilaiyankudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.1018/A2/2014 dated 30.03.2016 and quash the same and consequently direct the 2nd respondent to disburse the gratuity and remaining amount of P.F. withheld by him lawfully payable to the petitioner on her superannuation with accrued interest at the rate of 12% per annum.

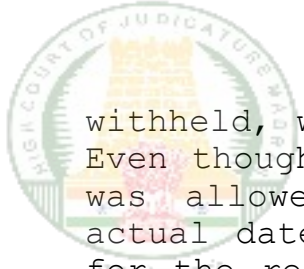
For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

ORDER

This Writ Petition is filed praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.1018/A2/2014 dated 30.03.2016 and quash the same and consequently direct the 2nd respondent to disburse the gratuity and remaining amount of Provident Fund(PF) withheld by him lawfully payable to the petitioner on her superannuation with accrued interest at the rate of 12% per annum.

2. The petitioner has come forward challenging the impugned order dated 30.03.2016 on the ground that, the petitioner has been granted partial terminal benefits including Gratuity and Provident Fund (P.F.) and the major portion of the Gratuity amount has been



withheld, while the petitioner was allowed to retire on 31.01.2014. Even though it has been stated in the affidavit that the petitioner was allowed to go on Voluntary Retirement Scheme(V.R.S.), the actual date of retirement is on 31.01.2014 and the learned counsel for the respondent would submit that the petitioner did not evince any interest to continue till the end of the Academic Year (i.e.,) 31.05.2014.

3. It is submitted by the learned counsel for the petitioner that no enquiry has been conducted to establish that the petitioner is guilty for the poor construction of the building and that, only on account of her inefficiency and slackness, the damage has been caused to the building constructed. It is no doubt true that, the entire Gratuity and also the Employer Contribution Fund can be forfeited or recovered from the Gratuity amount to the extent of damage caused by the employee recovered, only if the employee is found guilty of moral turpitude and, that can be done only after conducting an enquiry.

4. Heard the learned counsel for the petitioner and the respondent and perused the records placed before this Court.

5. Considering the facts and circumstances of this case, this Court feels that the amount can be recovered only after due enquiry. As there has been no enquiry conducted and the petitioner also has been allowed to retire on attaining the age of superannuation, the entire terminal retirement benefits have got to be paid to the employee. The Gratuity and Provident Fund amount cannot be deprived and the entire arrears have got to be paid within a period of two months from the date of receipt of a copy of this order.

6. Taking note of the fact that it is an educational institution, interest is not directed to be paid. If the amount is not paid within the time stipulated supra, the Gratuity amount will fetch 12% interest per annum and the Provident Fund will fetch 10% interest from the date of Superannuation (i.e.,) from 31.01.2014, till the amounts are actually disbursed to the employee and the interest portion can be recovered from the officials who are responsible to disburse the amount.

7. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-I)

To

1) The District Elementary Educational Officer,
Sivagangai District,
Sivagangai.



2) The Additional Assistant
Elementary Educational Officer,
Ilaiyankudi,
Sivagangai District.

+1cc to Mr.B.Prahalad Ravi, Advocate Sr.No.82588

+1cc to Spl.Government Pleader Sr.No.82831

STS

VB/PM/SAR1/07.12.2018/3P/5C

Order made in
W.P (MD) .No.7500 of 2016
05.09.2018