

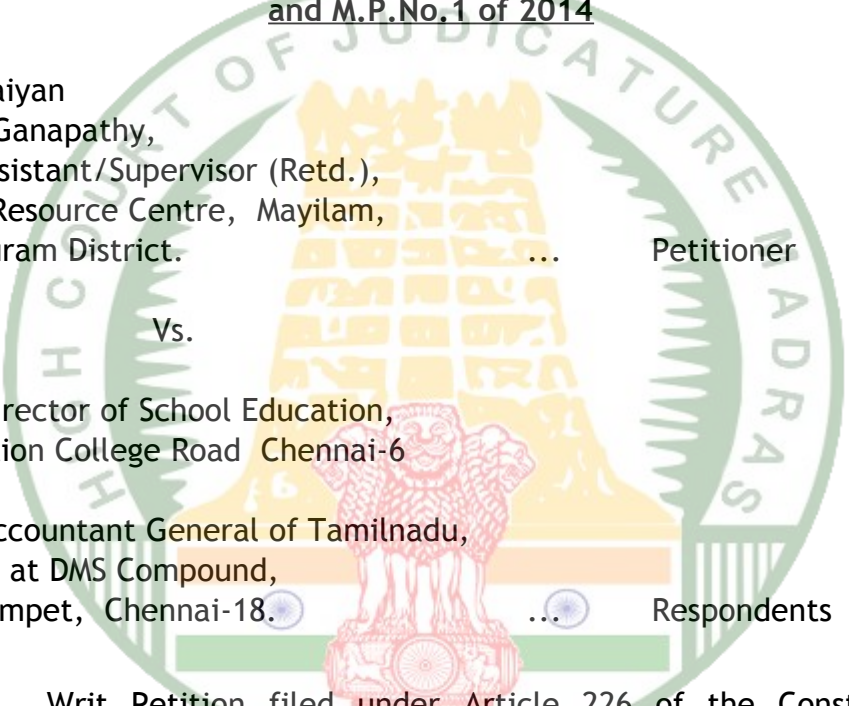
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.25183 of 2014and M.P.No.1 of 2014

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- 1 G.Velaiyan
S/o.S.Ganapathy,
P.G.Assistant/Supervisor (Retd.),
Block Resource Centre, Mayilam,
Villupuram District. Petitioner
- Vs.
- 1 The Director of School Education,
Education College Road Chennai-6
- 2 The Accountant General of Tamilnadu,
Office at DMS Compound,
Teynampet, Chennai-18. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to disburse the terminal benefits payable to petitioner namely (i) Rs.30 000/- towards Special Provident fund (ii) Rs.4,50,000/- towards Earned Leave Surrender (iii) Rs.1,30,000/- towards leave on medical ground (iv) Rs.9,28,249/- towards death cum retirement gratuity (v) Rs.5,79,608/- towards contributory pension (vi) Rs.70,000/- towards G.P.F. arrears and (vii) Rs.79,000/- towards arrears of salary apart from commutation arrears and arrears towards re-employment from 1.7.2012 along with statutory interest within a time limit to be stipulated by this Court.

For Petitioner : Mr.T.S.Chellapandian for
Mr.S.Mani
For Respondent No.1 : Mr.K.Karthikeyan,G.A.(Edn.)
For Respondent No.2 : Mr.T.S.Selvarani

ORDER

Petitioner has filed the writ petition before this Court for disbursal of terminal benefits payable to the petitioner. According to the petitioner, petitioner was removed from service on 12.5.1993. Challenging the dismissal order, the petitioner has preferred the O.A.No.3034 of 1993 before the Tamil Nadu State Administrative Tribunal and the same was transferred to this Court and re-numbered as W.P.No.14164 of 2006. This Court by order, dated 13.3.2007, set aside the order of removal and directed the authority to provide all monetary benefits to the petitioner within three months. Challenging the aforesaid order, the respondent department preferred an appeal in W.A.No.1058 of 2007 before the Division Bench of this Court and the same was dismissed by the Division Bench by order, dated 23.4.2008 and thereby confirmed the order, dated 13.3.2008 made in W.P.No.14164 of 2006. Subsequently, the Government passed G.O.Ms.No.29, School Education department, dated 10.2.2012, regularised the service of the petitioner with effect from 4.4.1982. The petitioner was allowed to retire on 30.6.2012. After retirement, the petitioner was not paid pension or other terminal benefits. Petitioner made representation on 27.10.2012 to the first respondent to

release the arrears of pay relating to the petitioner's retirement benefits. In the meantime, the petitioner received communication from the first respondent in proceedings in Na.Ka.No.30718/W3/E3/20912, dated 7.7.2014, dated 7.7.2014 initiating disciplinary proceedings against the petitioner.

2. According to the learned counsel appearing for the petitioner, initiation of disciplinary proceedings is without jurisdiction since the petitioner was allowed to retire from service. It is further submitted that there is no justification on the part of the respondents to withhold the retirement benefits including the pensionary benefits. Therefore, the petitioner has filed the present writ petition before this Court.

3. The second respondent has filed counter affidavit stating that even disciplinary proceedings is pending against the retired Government servant, provisional pensionary benefits can be sanctioned, without reference to the first respondent. If the first respondent forward the pension proposal in favour of the petitioner, the second respondent is prepared to authorise eligible benefits as per Tamil Nadu Pension Rules, 1978, by taking note of the Government orders issued in this regard.

4. The learned Government Advocate appearing for the first respondent would submit that charges were framed against the petitioner and therefore, the petitioner's retirement benefits were withheld by the respondent. According to the learned Government Advocate, pending disciplinary proceedings, petitioner is not entitled to provisional pensionary benefits and other retirement benefits. However, the learned Government Advocate agreed that the first respondent shall forward the pension proposal in respect of the petitioner to the second respondent for grant of provisional pension and eligible retirement benefits.

5. Recording the aforesaid submission made by the learned Government Advocate appearing for the first respondent and the averments made in the counter affidavit filed by the second respondent, the writ petitioner is permitted to make fresh application to the first respondent for provisional pensionary benefits and other eligible retirement benefits, within a period of two weeks from the date of receipt of copy of this order. On receipt of such representation by the first respondent, the first respondent shall consider the same and forward the pension proposal to the second respondent for granting provisional pensionary benefits as well as other eligible retirement benefits to the petitioner, within a period of eight weeks thereafter. The second respondent on receipt of pensionary proposal from the first respondent,

shall consider the same and pass appropriate orders on merit and in accordance with law, within a period of six weeks thereafter.

6. In fine, the writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

15.04.2019

Speaking/Non-speaking order

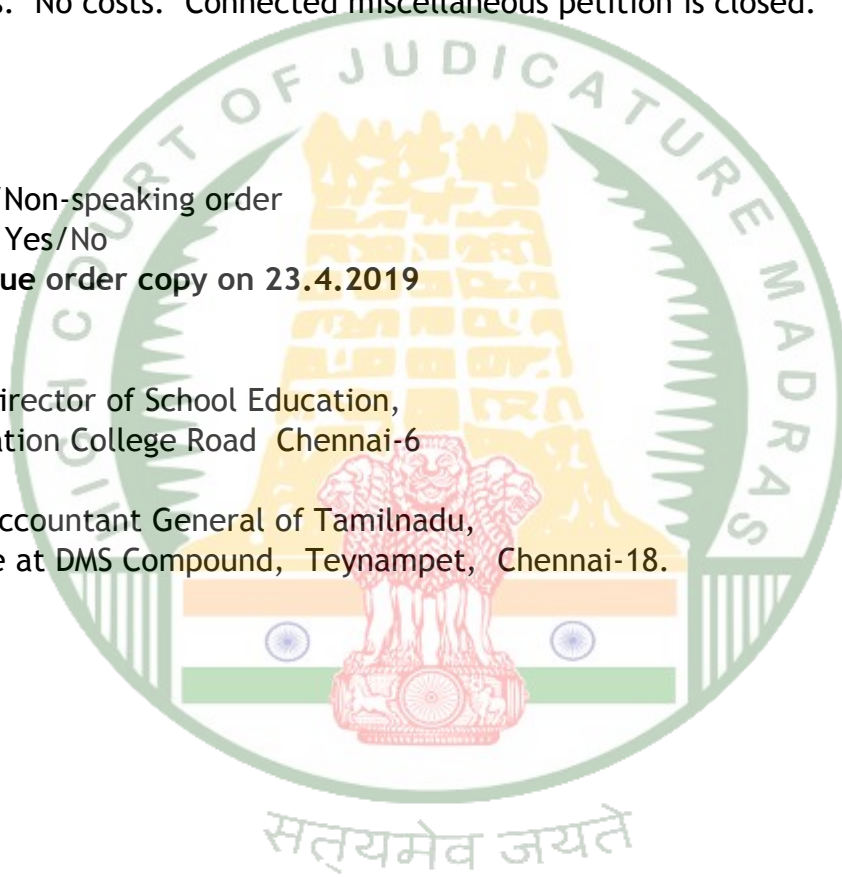
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Note: Issue order copy on 23.4.2019

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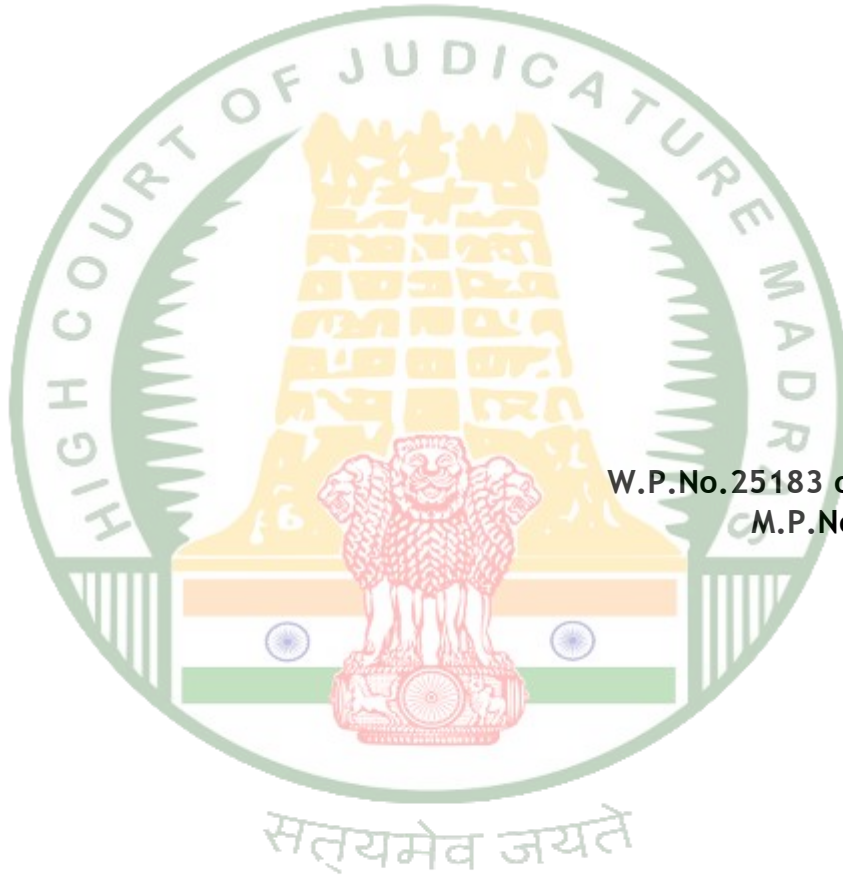
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Dated: 15.4.2019