

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.24698 of 2019
and
WMP.No.24364 of 2019

K.Jaganathan

... Petitioner

Vs

1.The Chief Educational Officer,
Salem, Salem District.

2.The Principal Accountant General (A & E)
Tamilnadu, Chennai - 18.

3.The Sub Treasury Officer,
Sub Treasury Office,
Omalur, Salem District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ direction or order in the nature of the Writ, calling for the records relating to the impugned orders passed by the third respondent bearing Na.Ka.No.1662/4/2016/Pension/A dated 27.09.2016 and consequential order in ROC No.1662/4/2016/Pension/B dated 13.10.2016 and quash the same and consequently direct the Respondents to refund the amount which was deducted from the petitioner's pension.

For Petitioner

: Mr.V.Thirupathi

For Respondents

: Mrs.P.Kavitha
Government Advocate

O R D E R

This Writ Petition has been filed for the issuance of Certiorarified Mandamus, calling for the records relating to the impugned orders passed by the third respondent bearing Na.Ka.No.1662/4/2016/Pension/A dated 27.09.2016 and consequential order in ROC No.1662/4/2016/Pension/B dated 13.10.2016 and quash the same and consequently direct the

Respondents to refund the amount which was deducted from the petitioner's pension.

2. According to the petitioner, he joined as Secondary Grade Teacher on 07.06.1961 in Periyavadagampatty Panchayat Union School. He was promoted as Middle School Head Master and also posted as Secondary Grade Teacher in the above said School. Thereafter, he retired from service as Secondary Grade Teacher on 30.03.1993. During his service, he was awarded Selection Grade / Special Grade based upon his earlier service as Middle School Headmaster. While so, after a lapse of nearly 23 years, all of a sudden, the third respondent by proceedings dated 27.09.2019, reduced the petitioner's monthly pension from Rs.10,763/- to Rs.9,790/- w.e.f 01.01.2007 and also ordered recovery of excess amount from his pension. Hence, the petitioner made representation on 05.10.2016 and also on 08.11.2016 requesting the respondents to assign reasons for recovery of the amount and reduction of his pension, but there was no reply. Hence the petitioner is before this Court with the present Writ Petition.

3. Learned counsel for the petitioner would contend that the impugned proceedings are liable to be set aside on the ground that the violation of principles of natural justice since before ordering recovery and reduction of pension, no notice has been served on the petitioner and despite his representation no reasons have been assigned so far. He would also contend that the impugned orders cannot be sustained since the third respondent, after lapse of nearly 23 years, has passed the impugned orders.

4. Considering the facts and circumstances and the submissions made by the learned counsel for the petitioner and in view of the fact that after a lapse of nearly 23 years, the third respondent has ordered the impugned proceedings ordering recovery of excess amount paid to the petitioner and before resorting the same the petitioner has not been issued any prior notice. Hence, this Court is inclined to set aside the impugned order since it has been passed in violation of principles of natural justice and the impugned order passed by the third respondent in Na.Ka.No.1662/4/2016/Pension/A dated 27.09.2016 and consequential order dated 13.10.2016 is hereby set aside. However, the respondents are directed to issue show cause notice assigning the reasons for recovery of excess amount and reduction of pension to the petitioner and after calling for explanation from the petitioner and pass orders within a period of twelve weeks (12) from the date of receipt of a copy of this order.

5. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chief Educational Officer,
Salem, Salem District.
- 2.The Principal Accountant General (A & E)
Tamilnadu, Chennai - 18.
- 3.The Sub Treasury Officer,
Sub Treasury Office,
Omalur, Salem District.

+1cc to Mr.V.Thirupathi, Advocate Sr.86443
+1cc to the Government Pleader Sr.87333, 87318

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br[co]
srg 22/01/2020

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