

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.2261 of 2018
& CMP Nos.8893, 8895 of 2019 &
18056 of 2018

1. Secretary to Government,
Government of Tamil Nadu,
School Education (B2) Department,
Fort St. George, Chennai - 600 009.
 2. Director of School Education,
(Elementary Education),
DPI Compound, College Road,
Chennai - 600 006.
- Appellants

Vs

1. V. Subramanian
 2. Principal Accountant General of Tamil Nadu
361, Anna Salai, Chennai - 600 018.
 3. The Correspondent,
Neelakonda Hindu Elementary School
Pathai (Via), Kalakadu Saragam,
Thirunelveli District - 627 501.
- Respondents

APPEAL filed under Clause 15 of the Letters Patent to set aside the order dated 06.09.2017 made in W.P.No.23169 of 2012.

W.P.No.23169 of 2012:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records from the 1st respondent relating to the impugned order bearing G.O (2D) No.11 School Education (B2) Department dated 11.3.2010 and quash the order dated 11.3.2010 and direct the respondents 1 to 4 to pay the petitioner the backwages based on the revised Scale of Pay with effect from 19.10.1993 to 30.12.1999 which comes to Rs.8.00 Lakhs with interest at the

rate of 12% per annum till the date of disbursement and award cost.

For Appellants : Mr.P.Raja, G.A.

For Respondents: Mr.S.Ayyathurai - R1
Mrs.Hema Muralikrishnan - R2
Mr.G.Sankaran - R3

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.,)

This intra Court appeal is directed against the order dated 06.09.2017 in W.P.No.23169 of 2012, whereby and where under the learned single Judge directed the appellants to pay the backwages with interest to the first respondent for the period from 19.10.1993 to 31.12.1999. The learned single Judge granted liberty to the appellants to recover the amount from the Management.

2. The Management dismissed the first respondent from service. The matter was referred to the Government for approval. The Government declined to grant approval. The subsequent events indicated above made the first respondent to move the Writ Petition in W.P.No.23169 of 2012. The learned single Judge having found that there was no approval of the action taken by the Management, held that the first respondent was entitled to the arrears of salary. The learned single Judge found that notwithstanding the order passed by the Government, the Management appointed another person in the place of the first respondent. Even though the liability is on the Management to pay the salary in question in view of the order passed by the Government, still the learned single Judge directed the appellants to pay the arrears of salary to the first respondent at the first instance and to recover the same from the Management. It is the said direction, which made the appellants to file this appeal.

3. This appeal was heard at length on an earlier occasion. When it was pointed out to the counsel for the Management that it was only on account of the action taken by the Management notwithstanding the order passed by the Government, the learned single Judge was constrained to pass the order, it was submitted that the Management would pay the entire backwages provided time is given to pay in instalments. Accordingly, the present Management has filed an affidavit today indicating that the entire arrears would be paid in 10 equal instalments. The request to pay the arrears in 10 equal instalments was opposed by the learned counsel for the first respondent. We also see considerable force in the submission made by the first

respondent.

4. The amount payable is a sum of Rs.3,95,340/-. We are giving six (6) months time to the third respondent to pay the arrears. The total amount is rounded off to Rs.4.00 lakhs. We direct the third respondent - Management to pay the entire arrears of Rs.4,00,000/- (Rupees four lakhs only) in six (6) equal instalments. The first instalment will be paid on or before 05.07.2019. Similarly, the remaining five (5) instalments will also be paid on 5th of the respective months. In case, the payment is delayed, the Management shall pay interest at the rate of 6% for the belated period. This order is passed on consent and as such the parties are not entitled to any other incidental benefits.

5. The intra Court appeal is disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Accountant General of Tamil Nadu
361, Anna Salai, Chennai 600 018.

2. Secretary to Government,
Government of Tamil Nadu,
School Education (B2) Department,
Fort St. George, Chennai - 600 009.

3. Director of School Education,
(Elementary Education),
DPI Compound, College Road,
Chennai - 600 006.

+1 CC to Mr.S.Ayyathurai, Advocate sr 48388.
+1 CC to The Govt. Pleader sr 49136.

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VD(CO)
SP(24/06/2019)