



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.12265 and 12266 of 2015
and

M.P. (MD) .No.1 of 2015
in

W.P. (MD) .No.12266 of 2015

and

W.M.P. (MD) .No.14527 of 2018
in

W.P. (MD) .No.12265 of 2015

S.Manimegalai

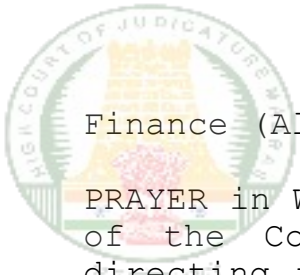
... Petitioner in both W.Ps

Vs.

- 1.The Government of Tamil Nadu
Rep by its Principal Secretary,
Department of School Education,
Fort St.Geroge,
Chennai-600 009.
- 2.The Director of School Education,
D.P.I Campus,
College Road, Nungambakkam,
Chennai-600 006.
- 3.The Chief Educational Officer,
Sivagangai District,
Sivagangai.
- 4.The District Educational Officer,
Sivagangai District,
Sivagangai.
- 5.The Headmaster,
Government Higher Secondary School,
A.Muraiyur,
Sivagangai District.

... Respondents in Both W.Ps

PRAYER in W.P. (MD) .No.12265 of 2015: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 5th respondent in Na.Ka.No.189/2014, dated 15.12.2014, quash the same and direct the respondents to continue to sanction the Conveyance Allowance to the petitioner as per G.O.Ms.No.391,



Finance (Allowances) Department, dated 07.10.2010.

PRAYER in W.P.(MD).No.12266 of 2015: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 5th respondent to draw and disburse the salary of the petitioner from the month of February 2015 onwards on accepting the Medical Certificates submitted by her as per Sec.80U of the Income Tax Act.

For Petitioner in
both petitions : Mr.R.Subramanian

For R1 to R4 in
both petitions : Mrs.S.Srimathy
Special Government Pleader

For R5 in both
petitions : Mr.R.R.Kannan

COMMON ORDER

These writ petitions are filed mainly on the ground that the conveyance allowance as applicable to the writ petitioner has been denied on account of malafide intension on the part of the Headmaster of Higher Secondary School, A.Muraiyur, Sivagangai District.

2.The learned counsel for the writ petitioner states that the fifth respondent has taken a personal vengeance against the writ petitioner and refused to forward the proposal for grant of conveyance allowance, despite the fact that the said conveyance allowance was granted to the writ petitioner from the year 1995 onwards and further, the writ petitioner is visually impaired and proper certificate was issued by the competent Medical Board, which was also accepted by the Department for many years.

3.The learned counsel appearing on behalf of the 5th respondent states that the conveyance allowance was not sanctioned to the writ petitioner on the ground raised by the audit party and therefore, he cannot be held responsible for not sending the proposal for grant of conveyance allowance in favour of the writ petitioner.

4.The learned Special Government Pleader appearing on behalf of the respondent Nos.1 to 4 state that there is some truth behind the statement made by the writ petitioner. The Headmaster has unnecessarily denied the benefit of conveyance allowance to the writ petitioner, despite the fact that the department allowed the conveyance to the writ petitioner from the year 1995 onwards and the action of the Headmaster of the Higher Secondary School is well narrated in Para No.3 of the counter affidavit filed by the Chief Educational Officer, Sivagangai and the same is extracted hereunder:



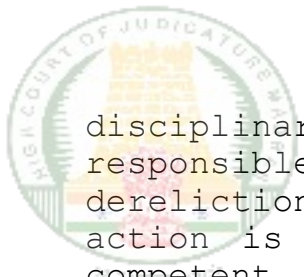
"3. The writ petitioner is a visually challenged person is denied as false and she is working as B.t Assistant in our School from 2012 onwards with normal vision. She was drawing the conveyance allowance from July 1997 onwards. She was not at all appointed under the Physically Handicapped Quota in Secondary Grade Teacher Post. Even though, she has availed the conveyance allowance entitled for physically challenged persons from July 1997, she has not produced any valid proceedings in order to substantiate her claim."

5.This Court is of the considered opinion that the eligibility or otherwise, in respect of the Medical report of the writ petitioner, this Court cannot arrive at a conclusion at this moment. Whether the writ petitioner is a visually impaired person and upto what extent and the eligibility to get conveyance are to be decided in accordance with the Service Rules in force. Such an exercise cannot be done without conducting an enquiry by the competent authority. Undoubtedly, such conveyance allowance was granted to the writ petitioner does not mean that no further review is to be conducted with reference to the disability of the writ petitioner for the purpose of grant of conveyance allowance.

6.This Court is of the considered opinion that the learned Special Government Pleader also supported the case of the writ petitioner by stating that the Chief Educational Officer found that the benefit of conveyance allowance was erroneously denied to the writ petitioner, at the instance of the fifth respondent Headmaster. In view of the stand taken by the Chief Educational Officer, this Court has come to a conclusion that an enquiry is to conduct for the purpose of ascertaining the facts and institute appropriate action against all the officials, who all are responsible and accountable for the erroneous denial of conveyance allowance to the writ petitioner in accordance with the Rules in force.

7.Even in case, the Headmaster has denied the conveyance allowance to the writ petitioner in violation of the Rules, the Chief Educational Officer, who filed the counter affidavit before this Court regarding the erroneous action of the Headmaster ought to have initiated appropriate action against the Headmaster during the relevant point of time. It has also not been done by the Chief Educational Officer. He is also accountable for his laches, negligence and dereliction of duty in not initiating action against the Headmaster, during the relevant point of time, if he came to the conclusion that the conveyance allowance was unnecessarily denied to the writ petitioner based on certain personal vengeance.

8.All these factual situations with reference to the records are to be ascertained by the Directorate of School Education by conducting an enquiry through the Joint Director of School Education and appropriate action is to be taken by the Director for grant of conveyance allowance to the writ petitioner as well as to institute



disciplinary action against all the officials, who all are responsible and accountable for their laches, negligence and dereliction of duty. Even in case, if they have retired, suitable action is to be initiated by obtaining proper approval from the competent authority viz., the Government under the Tamil Nadu Pension Rules, 1978.

9.This being the factum of the case, the Director of School Education, College Road, Chennai-6, is directed to conduct an enquiry through an Officer not below the rank of the Joint Director of School Education by issuing notices to all the parties concerned and on receipt of the report from the Enquiry Officer, all suitable actions are to be initiated for grant of conveyance allowance to the writ petitioner as well as to institute the departmental disciplinary proceedings against the authorities, who committed laches, negligence and dereliction of duty and in respect of the retired employee, by obtaining appropriate permission from the Government under the Tamil Nadu Pension Rules, 1978, the said exercise is to be done by the Director of School Education within a period of four months from the date of receipt of a copy of this order.

10.With these observation, these writ petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To:

- 1.The Principal Secretary,
Government of Tamil Nadu
Department of School Education,
Fort St.Geroge,
Chennai-600 009.
- 2.The Director of School Education,
D.P.I Campus,
College Road,
Nungambakkam,
Chennai-600 006.
- 3.The Chief Educational Officer,
Sivagangai District,
Sivagangai.



4.The District Educational Officer,
Sivagangai District,
Sivagangai.

+2 CC to M/s.R.R.KANNAN, Advocate SR-77113 & 77112

+1cc to Mr.R.Subramanian, Advocate, SR.No.76857

+1cc to Spl. Govt. Pleader, SR.No.76934

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Ns

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