

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.32891 of 2007

and

M.P.No.2 of 2007 & M.P.No.1 of 2008

A.Pavalakodi

Headmaster - Retired

Adi Dravidar Welfare School

Thillai Nayagapuram

Chidambaram

Cuddalore District.

.. Petitioner

Vs.

1.The Government of Tamil Nadu

Rep by the Secretary to Government

Adi Dravidar & Tribal Welfare Department

Fort St.George, Chennai - 9.

2.The Director of Adi Dravidar & Tribal Welfare

Chepauk,

Chennai - 5.

3.The District Adi Dravidar and Tribal Welfare Officer

Cuddalore District,

Cuddalore.

4.The Accountant General

Teynampet,

Chennai - 18.

5.The Special Tahsildar

Adhi Dravidar and Tribal Welfare

Chidambaram

Cuddalore District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the third and fourth respondent in relation to the proceedings issued in W.7/73438/2000 dated 12.04.2001 and AG(A&E)/PEN PO9/4/P3-11/RVN/2003-2004/148 dated 21.04.2003 respectively and quash the same and issue a consequential direction to the respondents to release the amount of Rs.1,24,106/- recovered from the amount of

gratuity with interest @ 18% per annum and restore the pay of the petitioner at Rs.1760/- in the scale of pay of Rs.1640-2900 in the selection grade scale of pay of Primary School Headmaster with effect from 1.6.88 with consequential benefits and revise the pension and pay the arrears of pension to the petitioner.

For Petitioner : Ms.J.Jessie Juliet  
for Mr.R.Saseetharan

For Respondents: Mr.P.Chinnadurai  
Additional Government Pleader  
[R1 to R3 & R5]

Mr.V.Vijay Shankar  
Standing Counsel for R4

### O R D E R

The writ petition has been filed to quash the impugned orders passed by the third and fourth respondents and seeking a direction of this Court to issue a direction to the respondents to release the amount of Rs.1,24,106/- recovered from the amount of gratuity with interest @ 18% per annum and to restore the pay of the petitioner at Rs.1760/- in the scale of pay of Rs.1640-2900 in the selection grade scale of pay of Primary School Headmaster with effect from 1.6.1988 with consequential benefits and revise the pension and to pay the arrears of pension to the petitioner.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for respondents 1 to 3 & 5 and the learned Standing Counsel appearing for the fourth respondent.

3. The learned counsel appearing for the petitioner would submit that a writ petition in W.P.No.20952 of 2007 has been filed by a similarly placed person seeking a relief as prayed by the petitioner in the present case, in which, this Court has set aside the impugned orders of the respondents, who are one and the same in both the cases, and the writ petition in W.P.No.20952 of 2007 came to be allowed vide order of this Court dated 15.12.2017.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 & 5 also conceded to the submissions of the learned counsel for the petitioner. He also produced a copy of the letter issued by the third respondent dated 02.12.2020 addressed to the Office of the Additional Government Pleader, High Court, Madras, stating about the filing of the present writ petition in W.P.No.32891/2007 and that no appeal has been

preferred against the order of this Court dated 15.12.2017 in W.P.No.20952 of 2007 preferred by one C.P.Murugesan, seeking same relief.

5. It is relevant to extract paragraph No.15 of the order dated 15.12.2017 in W.P.No.20952 of 2007 :

" 15. In view of the above narrated facts, this Court has no hesitation to allow the writ petition as the petitioner has made out a clear case for grant of relief in his favour. Accordingly, the Writ Petition stands allowed. The impugned orders in Na.Ka.W.7/73438/2000 dated 12.04.2001 issued by the 3<sup>rd</sup> respondent and in Na.Ka.No.A1/580/01 dated 24.5.2004 by the 5<sup>th</sup> respondent and in No.AG(A&E)/PEN P09/5/M45-464/RTD/2004-2005 dated 2.9.2005 by the 4<sup>th</sup> respondent are set aside. There shall be a consequential direction to the respondents to restore the pay of the petitioner to the original status and his pension has to be calculated on the basis. The petitioner is entitled to arrears of such re-calculation. The respondents are also directed to refund the amount recovered from the petitioner's retirement benefits. The above directions shall be complied with by the respondents within a period of ten weeks from the date of receipt of a copy of this order."

6. Considering the identical facts of the case in W.P.No.20952 of 2007, this Court has no hesitation to allow the writ petition. Accordingly, the writ petition stands allowed. The impugned orders in W.7/73438/2000 dated 12.04.2001 issued by the third respondent and AG(A&E)/PEN P09/4/P3-11/RVN/2003-2004/148 dated 21.04.2003 issued by the fourth respondent are set aside. There shall be a consequential direction to the respondents to restore the pay of the petitioner to the original status and his pension has to be calculated on the basis. The petitioner is entitled to arrears of such re-calculation. The respondents are also directed to refund the amount recovered from the petitioner's retirement benefits. The above directions shall be complied with by the respondents within a period of ten weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

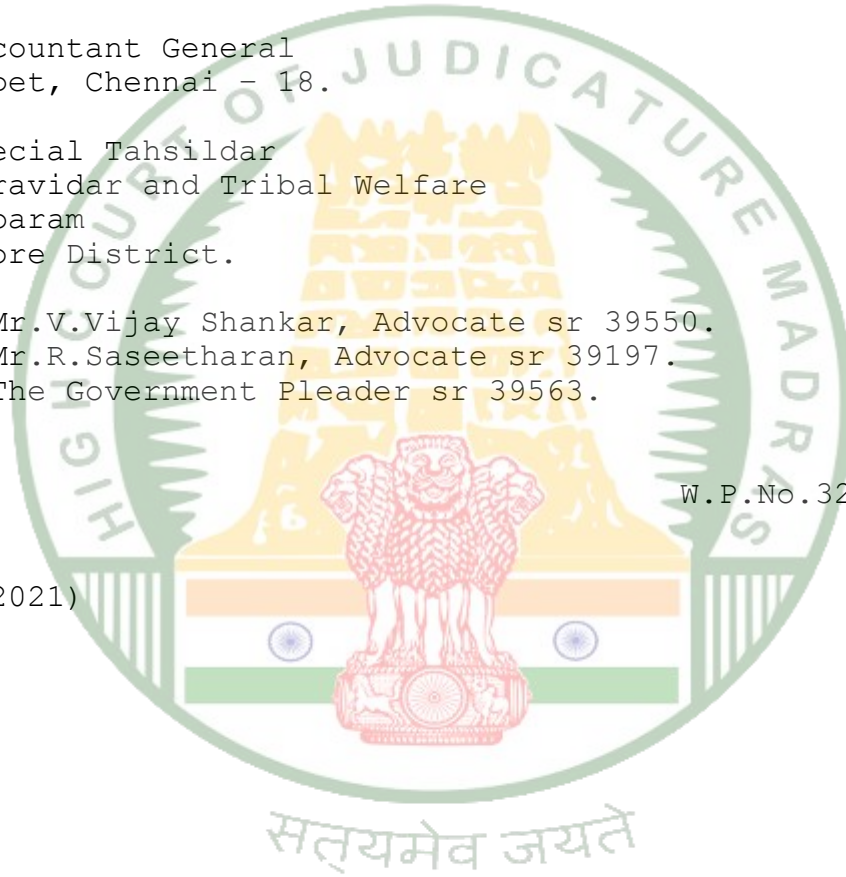
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To:

1. The Secretary  
Government of Tamil Nadu  
Adi Dravidar & Tribal Welfare Department  
Fort St.George, Chennai - 9.
  2. The Director of Adi Dravidar & Tribal Welfare  
Chepauk, Chennai - 5.
  3. The District Adi Dravidar and Tribal Welfare Officer  
Cuddalore District, Cuddalore.
  4. The Accountant General  
Teynampet, Chennai - 18.
  5. The Special Tahsildar  
Adhi Dravidar and Tribal Welfare  
Chidambaram  
Cuddalore District.
- +1 CC to Mr.V.Vijay Shankar, Advocate sr 39550.  
+1 CC to Mr.R.Saseetharan, Advocate sr 39197.  
+1 Cc to The Government Pleader sr 39563.

W.P.No.32891 of 2007

RLD(CO)  
SP(03/02/2021)



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