



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.08.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

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W.P. (MD)No.9773, 9775, 9787 and 9805 of 2020

SP.Alagappan	... Petitioner in W.P(MD).No.9773 of 2020
SP.Sitharthan	... Petitioner in W.P(MD).No.9775 of 2020
N.Mariappan	... Petitioner in W.P(MD).No.9787 of 2020
PR.Andiappan	... Petitioner in W.P(MD).No.9805 of 2020

-Vs-

1.The State of Tamil Nadu,
Rep., by its Principal Secretary to Government,
Higher Education Department,
St.George Fort, Chennai 600 009.

2.The Director /Commissioner,
Directorate of Technical Education,
Guindy, Chennai 600 025.

3.The Principal,
Annamalai Polytechnic College,
Chettinad, Sivagangai District.

...Respondents in
all petitions

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the revised pay, pension and retirement benefits as per 7th pay commission fixation of the petitioner after withholding a sum of Rs.14,47,726/-, Rs.16,55,673/-, Rs.19,05,226/- and Rs.18,83,163/- respectively as pending recovery proceedings initiated by the third respondent in his proceedings in APC/A3/2016 dated 23.01.2017 and in his proceedings in 344/A3/2017 dated 25.01.2017 subject to the outcome of the pending writ petition in W.P(MD).Nos.1460 to 1465 of 2017 by considering the petitioners' representation dated 08.07.2020 within the period that may be stipulated by this Court.

In all petitions

For Petitioner	: Mr.C.Venkateshkumar for M/s.Ajmal Associates
For Respondents	: Mr.M.Jeyakumar Additional Government Pleader for R1 & R2



COMMON ORDER

Since all these writ petitioners in these batch of writ petitions are similarly placed and the grievance raised by them is one and the same, with consent of both the learned counsel appearing for parties, all these writ petitions are being disposed of by this common order at the admission stage itself.

2. Heard Mr.C.Venkateshkumar, learned counsel appearing for the petitioners and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for respondents 1 and 2. Since no adverse order is going to be passed against the third respondent, notice to him is dispensed with.

3. These petitioners had been working as Teaching faculties at the third respondent Polytechnic College, which is an aided polytechnic and they retired from service on superannuation on various dates respectively on 31.07.2019, 31.03.2018, 31.03.2018 and 31.05.2019.

4. However, during their service, there had been a proceedings to recover some amount allegedly paid as excess pay to the extent of nearly about 14 and 15 lakhs rupees. As against which, these petitioners filed writ petitions in W.P.(MD)Nos.1463 to 1465 of 2017. Totally, there are six writ petitioners. All those writ petitions filed by them, where interim order of recovery has been granted by this Court, by order dated 31.01.2017, are pending.

5. In view of the said pendency of the writ petitions, the petitioners' pension papers, even though they attained superannuation on 31.07.2019, 31.03.2018, 31.03.2018 and 31.05.2019 respectively, have not been moved. Therefore, the petitioners are not able to get the retiral benefits including the pensionary benefits.

6. In this context, their stand is that, if at all, any amount due payable or recoverable from the petitioners by the respondents employer, since the said issue is pending before this Court in the aforesaid batch of writ petitions referred to above, depending upon the outcome of the decision to be made by this Court in the said writ petitions filed by the petitioners, by retaining the approximate amount allegedly paid excess, which according to the respondents is to be recovered from the petitioners, the remaining amount out of the total retiral benefits payable to the petitioners can be calculated and paid.

7. In this context, the learned counsel appearing for the petitioners would submit that, one of the petitioner among six, namely Mohammed Abdul Nazar has already approached this Court and filed W.P.(MD).No.8749 of 2020, where this Court, by order dated 05.08.2020, disposed the writ petition with the following order:



'(i) that the respondents are hereby directed to consider the request of the petitioner, dated 08.07.2020 and accordingly, calculate the amount to be recovered from the petitioner, pursuant to the recovery proceedings initiated by the respondents dated 23.01.2017 and 25.01.2017 and the remaining amount, out of the total retiral benefits payable to the petitioner shall be disbursed to the petitioner. Even the retained portion of the amount for the purpose of recovery proceedings is subject to the outcome of the W.P.(MD)Nos.1460 to 1465 of 2017. The needful as indicated above shall be undertaken by the respondents within a period of eight weeks from the date of receipt of a copy of this order.'

In view of the said order having been passed, the same relief can be extended to these writ petitions, who are also similarly placed.

8.Heard Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the official respondents, who would submit that, the amount payable by the petitioners since sought to be recovered and the said issue is pending before this Court in the above referred writ petitions, their request now made through the representations by the individual writ petitioners herein, would be considered by the respondents and accordingly, the remaining amount payable by way of retiral benefits to the petitioners would be calculated and be paid by retaining the approximate due payable by the petitioners to the employer.

9.Having regard to the said submissions made by the learned counsel appearing for both the parties and by considering the aforesaid factual matrix in view of the earlier order passed by this Court as referred to above in W.P(MD).No.8749 of 2020, dated 05.08.2020, this Court is inclined to pass the following order:

'that the respondents are hereby directed to consider the representations/request of the petitioners, dated 08.07.2020 and accordingly, calculate the amount to be recovered from the petitioners, pursuant to the recovery proceedings initiated by the third respondent dated 23.01.2017 and 25.01.2017 and the remaining amount, out of the total retiral benefits payable to the petitioners shall be disbursed to the petitioners. Even the retained portion of the amount for the purpose of recovery proceedings is subject to the outcome of the W.P.(MD)Nos.1460 to 1465 of 2017. The needful as indicated above shall be undertaken by the respondents within a period of eight (8) weeks from the date of receipt of a copy of this order.'



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10. With the above directions, all these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Rmk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
St. George Fort, Chennai 600 009.
2. The Director /Commissioner,
Directorate of Technical Education,
Guindy, Chennai 600 025.
3. The Principal,
Annamalai Polytechnic College,
Chettinad, Sivagangai District.

+1 CC to Spl GP (SR-14914[F] dated 25/08/2020)

W.P. (MD) No. 9773, 9775, 9787 and 9805 of 2020
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VB (09.10.2020) 4P 5C