



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2020

CORAM :

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THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD) No.25791 of 2019

and

W.M.P(MD).No.22319 of 2019

Pa.Jeyaraman

... Petitioner

vs.

1.The Director of Treasuries
and Accounts, Nandanam, Chennai.

2.The Treasury Officer,
District Treasury Office,
Trichy.

3.The District Educational Officer,
Trichy.

... Respondents

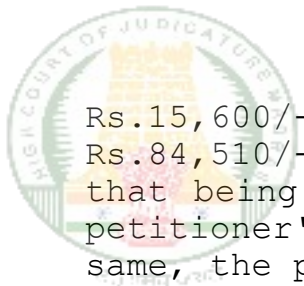
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.501/2015/T1 dated 16.07.2015 quash the same and direct the respondents to restore the petitioner's pension in the cadre of Special Grade B.T.Assistant and also refund the amount recovered from the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.M.Karuppasamy
Government Advocate

O R D E R

The petitioner herein had retired from his service on 17.01.1995 and is now a pensioner. At the time of his retirement, it was claimed that the petitioner was holding the post of Special Grade B.T.Assistant-cum-Assistant Educational Officer (AEO). Based on certain audit objections, it is stated in the impugned order, dated 16.07.2015 that the petitioner had retired as an Assistant Elementary Educational Officer (AEEO) and therefore, he was entitled for pension of Rs.6,900/- in the time scale of 9,300/- + 4,500/- GP (AEEO), but his pension has been wrongly fixed at Rs.9.069/- in the cadre of Special Grade B.T.Assistant in the time scale of pay



Rs.15,600/- + 5,400/- GP and leads to an excess of payment of Rs.84,510/- for the period between 01.01.2007 and 30.06.2015. When that being so, the Treasury Officer was instructed to regulate the petitioner's pension and recover the excess. Aggrieved against the same, the present writ petition has been filed.

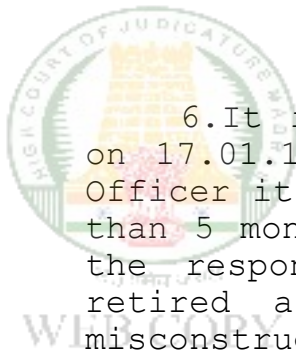
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2.The learned counsel for the petitioner would submit that the petitioner did not hold the post of AEEO at the time of retirement and that the post he was holding was only as Special Grade B.T.Assistant-cum-AEO and therefore, the impugned order stating that he had retired as AEEO is incorrect. According to the learned counsel, the post of AEEO was created only with effect from 26.06.1995 and since the petitioner had retired on 17.01.1995 itself, the impugned order is apparently incorrect.

3.The learned Government Advocate appearing for the respondents on the other hand would place reliance on the impugned order and submit, on instructions, that the petitioner had retired as an Assistant Elementary Educational Officer and as such, he was not eligible for the pension of Special Grade B.T.Assistant. In view of this mistake in granting pension to the petitioner, excess pension has been paid to the petitioner, which the respondents are entitled to recover.

4.I have given careful considerations to the submissions made by the learned counsel.

5.The entire case revolved on the simple ground as to from what date the post of Assistant Elementary Educational Officer created. The learned counsel for the petitioner had produced a copy of the Government Order in G.O.Ms.No.497, Education, Science and Technology Department, dated 26.06.1995, creating the post of Assistant Elementary Educational Officer. Perusal of the Government Order reveals that, as per the policy decision of the Government, the Elementary Education was separated from the School Education Department and accordingly, the post of Director of Elementary Education was sanctioned in the year 1986 and was also subsequently formed. At the Block level, the post of Assistant Educational Officer was held by the persons drawn from the School Education Department. The Headmasters of Middle Schools were posted as Assistant Educational Officer. In this background, the new post of Assistant Elementary Education Officer was sanctioned and the order come into force, as and when the posts became vacant. As and when the post of the Assistant Educational Officer became vacant after the exit of the incumbents, the post of Assistant Educational Officer was ordered to be converted as Assistant Elementary Educational Officer. Thus, it cannot be disputed that the post of Assistant Educational Officer, came to be converted into the post of Assistant Elementary Educational Officer, through G.O.Ms.No.497, Education, Science and Technology Department, dated 26.06.1995.



6.It is not in dispute that the petitioner herein had retired on 17.01.1995. When the post of Assistant Elementary Educational Officer itself came to be created on 26.06.1995, which is after more than 5 months from the petitioner's retirement, the stand taken by the respondents in the impugned order that the petitioner had retired as Assistant Elementary Educational Officer itself is misconstrued.

7.The learned counsel for the petitioner had also produced a certificate obtained from the third respondent herein dated 11.08.2016, which evidences that the petitioner herein had served under the District Education Officer, Tiruchirapalli from 28.07.1971 to 17.01.1995 in the post of Special Grade B.T.Assistant-cum-Assistant Educational Officer and thereafter, retired on 17.01.1995. This certificate issued by the District Educational Officer, Tiruchirapalli has not been disputed by the respondents. While that being so, I am unable to appreciate as to how the second respondent herein had come to the conclusion that the petitioner had retired as an Assistant Elementary Educational Officer, which could give rise to the consequence that he has been paid with excess pension. In view of the same, this Court is of the affirmed view that the impugned order cannot be sustained.

8.In the light of the above observations, the impugned order dated 16.07.2015 in Na.Ka.No.501/2015/T1 passed by the second respondent stands quashed. Consequently, there shall be a direction to the second respondent herein to restore the petitioner's pension in the cadre of Special Grade B.T.Assistant and any recovery made pursuant to the impugned order, dated 16.07.2015 shall be refunded to the petitioner. Such refund shall be made at least within a period of eight (8) weeks from the date of receipt of a copy of this order.

10.With the above observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

rmk



To

1.The Director of Treasuries
and Accounts, Nandanam, Chennai.

2.The Treasury Officer,
District Treasury Office,
Trichy.

3.The District Educational Officer,
Trichy.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-2740[F] dated 24/01/2020)

+1 CC to M/s.SPL GP (SR-2894[F] dated 24/01/2020)

W.P. (MD) No.25791 of 2019
23.01.2020

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