

IN The HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6029 of 2021

R.Vasanthi

... Petitioner

-vs-

1. The Principal Accountant General,
Office of the Principal Accountant,
General (A & E) Tamil Nadu,
361, Anna Salai, Chennai - 600 018.
 2. The Chief Educational Officer,
Vellore District, Vellore.
 3. The Block Educational Officer -I,
Katpadi Union, Katpadi,
Vellore District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to forward the representation of the petitioner, dated 16.10.2020 along with the proposals to the 1st respondent, which was given seeking for the re-fixation of pay / pension and for the payment of pensionary benefits in accordance with the G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011.

For Petitioner : Mr.A.S.Kaizer

For Respondents: Mr.V.Vijayashankar (for R1)
Mr.P.Raja, (for R2 and R3)
Government Advocate

ORDER

This Writ petition is filed, seeking a direction to the 3rd respondent to forward the representation of the petitioner, dated 16.10.2020 along with the proposals to the 1st respondent, which was given for re-fixation of pay / pension and for the payment of pensionary benefits in accordance with the G.O.Ms.No.23, Finance (Pay Cell) Department, dated 12.01.2011.

2.Mr.V.Vijayashankar, learned Standing counsel takes notice for R1 and Mr.P.Raja, learned Government Advocate takes notice for the R2 and R3. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that she was appointed as Secondary Grade Assistant Teacher on 07.12.1973 and retired from service as Elementary School Headmaster after attaining the age of superannuation on 31.04.2008. As per G.O. Ms. No.234, Finance (Pay Cell) Department, dated 01.06.2009, the petitioner's pay was fixed at Rs.21,660/- in the scale of 17070 + 4600 GP and based on the last drawn salary, the petitioner's pension was fixed and the petitioner receiving the said pension as on date. While so, the Government has issued One man Commission's report vide G.O.Ms.No23, Finance (Pay Cell) Department, dated 12.01.2011, under which the anomalies in the pay scale of Teachers including Elementary School Headmasters were rectified and directed for the revision of pay and consequential pensionary benefits based on the revised scale of pay giving notional benefits from 01.01.2006 and monetary benefits from 01.01.2011. According to the petitioner, the petitioner's pay and pensionary benefits should be re-fixed as per the G.O.MS.No.23, Finance (Pay Cell) Department, dated 12.01.2011. In this connection, the petitioner sent representation, dated 16.10.2020 to the 1st respondent through 3rd respondent. As there is no reply for the representation, the petitioner is before this Court by filing the present Writ Petition, seeking the aforesaid relief.

4. Mr.P.Raja, learned Government Advocate submitted that the 3rd respondent will forward the representation of the petitioner dated 16.10.2020 to the 1st respondent for considering the request for refixation of pay and pension and extension of pensionary benefits. Depending upon the orders passed by the 1st respondent, the benefits may be extended to the petitioner.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's proposal is already pending with the 3rd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 3rd respondent to forward the representation of the petitioner dated 16.10.2020 along with proposals to the 1st respondent and the 1st respondent is directed to consider the representation preferred by the petitioner dated 16.10.2020, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 16.10.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To

1. The Principal Accountant General,
Office of the Principal Accountant,
General (A & E) Tamil Nadu,
361, Anna Salai, Chennai - 600 018.

2. The Chief Educational Officer,
Vellore District, Vellore.

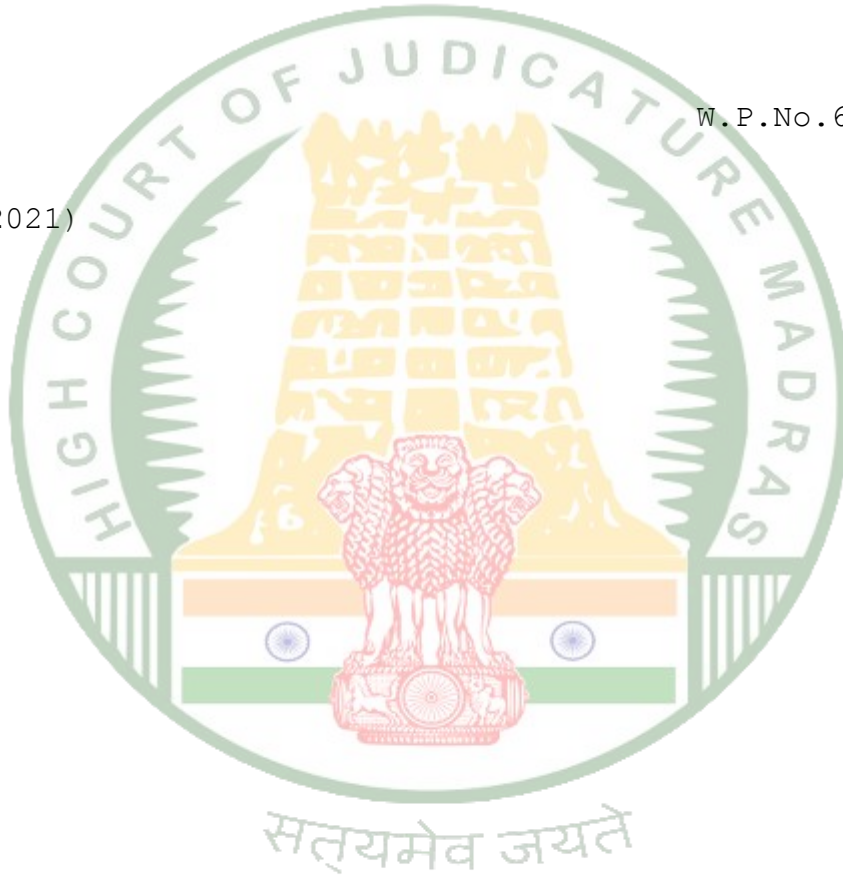
3. The Block Educational Officer -I,
Katpadi Union, Katpadi.

+1cc to Mr.A.S.Kaizer, Advocate, S.R.No.16052

+1cc to the Government Pleader, S.R.No.16096

W.P.No.6029 of 2021

MG (CO)
KM(22/04/2021)



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