

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.03.2021

CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7435 of 2021

M. Rajasegaran

... 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

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus directing the 3rd respondent to forward the representation of the petitioner dated 13.10.2020 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.38, School Education (S2) Department, dated 05.03.2001.

For Petitioner : Mr.A.S.Kaizer

For respondents: Mr.P.Raja
Government Advocate

ORDER

This writ petition has been filed directing the 3rd respondent to forward the representation of the petitioner dated 13.10.2020 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.38, School Education (S2) Department, dated 05.03.2001.

2. Mr.P.Raja, learned Government Advocate takes notice for respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The case of the petitioner is that the petitioner was appointed as Secondary Grade Assistant Teacher on 27.11.1966 and was promoted as B.T.Assistant Teacher on 05.06.1997. On 30.09.2002, the petitioner retired from service on superannuation. On the date of retirement i.e., on 30.09.2002, the petitioner's pay was Rs.8900/- in the scale of Rs.5900-200-9900 and based on the last drawn salary the petitioner's pension was fixed and he was receiving the said pension as on date. G.O.Ms.No.38, School Education (S2) Department, dated 05.03.2001 came to be passed by the Government of Tamil Nadu with a view to retrieve the grievances of the Teachers. Under the said G.O. it was directed that if a Teacher's ordinary grade scale of pay in the promoted post happened to be the same as that of the Selection Grade scale of pay in the feeder post, the said Teacher's Grade in the promoted post should be fixed taking into account the identical scale of pay he received in the feeder post. Hence, he sent a representation on 17.06.2020 including the latest representation dated 13.10.2020 to the Principal Accountant General, 1st respondent herein, through proper channel i.e., the Block Educational Officer-1, Katpadi Union, Vellore District, the third respondent enabling him to forward it to the 1st respondent herein, who is the competent authority to approve the revised pension in the accordance with G.O.Ms.38 dated 05.03.2001. Since the third respondent has not forwarded the petitioner's representation with the proposal, the petitioner has filed the present writ petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 3rd respondent and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 3rd respondent herein to consider the representation preferred by the petitioner dated 13.10.2020, if the petitioner is found to be eligible 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 120 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 3rd 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 13.10.2020 and this order, to the respondents forthwith;

v) The 3rd 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.

6. However, this Court makes it clear that in case if the petitioner is entitled to any monetary benefits he will not be entitled for any interest, as there was a delay of 19 years in approaching this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dpq

To

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

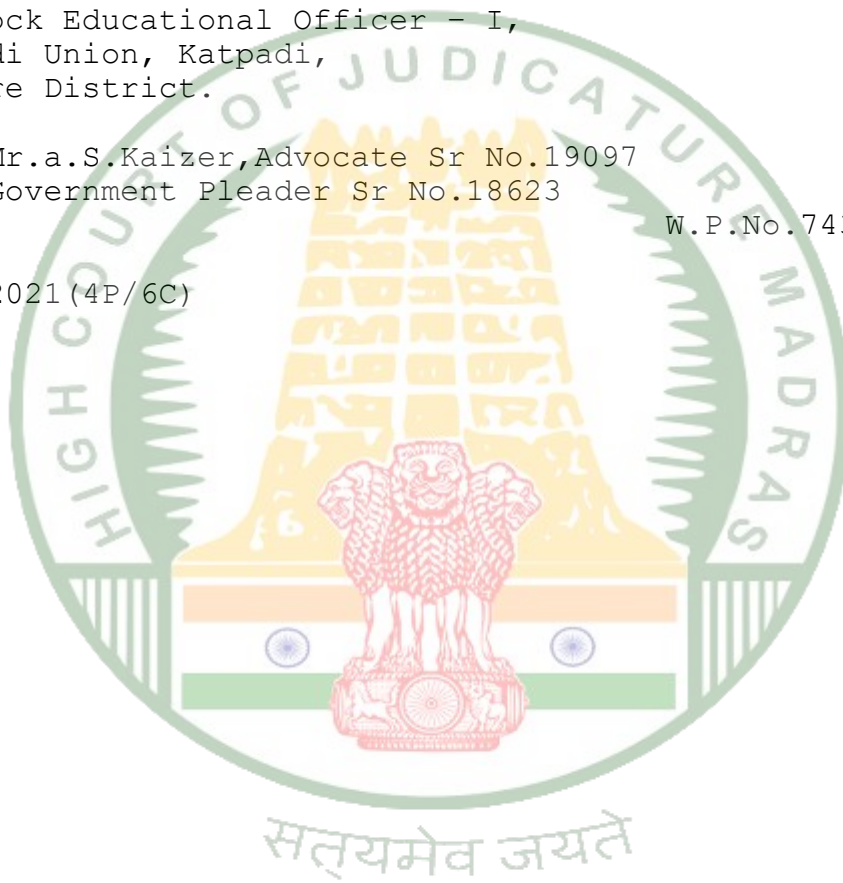
2. The Chief Educational Officer,
Vellore District,
Vellore.

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

+1 cc to Mr.a.S.Kaizer, Advocate Sr No.19097
+1 cc to Government Pleader Sr No.18623

W.P.No.7435 of 2021

GPL(CO)
RG.21.04.2021(4P/6C)



WEB COPY