



IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 09.08.2021

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.1858 of 2021

and

C.M.P. No.11810 of 2021

- 1.State of Tamil Nadu,
rep. by the Secretary to Government,
School Education Department,
Fort St. George, Chennai-9.
- 2.The Director of School Education (Secondary),
College Road,
Chennai-6.
- 3.The District Educational Officer,
Periyakulam,
Theni District. ... Appellants/Respondents

versus

S.Vivekanandan ... Respondent/Petitioner

Prayer: Appeal filed under Clause 15 of the Letters Patent against the final order dated 25.09.2020 passed by the learned Single Judge in Writ Petition No.7825 of 2013.

WP.7825 of 2013 Prayer:

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings of the 3rd respondent in Na. Ka. No.788 A1 2003 dated 29.03.2004 and in Na. Ka. No.1876/Aa/2011 dated 16.04.2012 quash the same and direct the respondents to refix the petitioner's salary in the scale of pay applicable to Head Masters from 29.9.1989, Selection Grade Pay from 30.9.1989 and Special Grade from 6.9.1999 and refix the petitioner's salary and pension and pay the petitioner the retirement benefits due to the petitioner.

For Appellants : Mr.R.Neelakandan,
State Government Counsel



JUDGMENT

(Judgment of Court was delivered by PUSHPA SATHYANARAYANA, J.)

This intra-Court appeal is filed by the Government, challenging the order dated 25.09.2020 passed in W.P.No.7825 of 2013 allowing the writ petition.

2. The respondent/Writ Petitioner had challenged the proceedings of the third appellant and sought for a direction to re-fix his salary in the scale of pay applicable to Head Master from 29.09.1989, and then grant Selection Grade Pay and Special Grade Pay at the relevant point of time.

3. The third appellant re-fixed the salary of the writ petitioner, vide proceedings dated 05.04.1999, against which, he had preferred O.A.No.442 of 1999 before the Tamil Nadu Administrative Tribunal, which originally granted an interim stay. Later, the same was transferred to this Court and re-numbered as W.P.No.26074 of 2005. Despite the order of stay granted by the Administrative Tribunal, as the Writ Petitioner was due to retire on 31.03.2004, without adverting to the order, the third appellant had re-fixed the salary of the writ petitioner and as a corollary, also the pensionary benefits. In the meanwhile, the said Writ Petition was allowed on 28.02.2011 and the appellants were directed to re-fund the money to the writ petitioner, if recovery was already made. Though the sum of Rs.77,555/- was recovered from the writ petitioner and as the sum of Rs.50,000/- payable towards Provident Fund was withheld for the purpose of recovery on re-fixation of Selection Grade and Special Grade pay, the fixation was not done by the appellants. The Writ Court had found that though in the earlier order in W.P.No.26074 of 2005, this Court had directed the appellants to pay the Selection Grade and Special Grade to the writ petitioner on the basis of his promotion and also to refund the money to him, if it was already recovered, the same has not been done. It is also relevant to note that in the Contempt petition filed by the Writ Petitioner later, the appellants have also admitted that an amount of Rs.50,000/- was withheld as provident fund payable to the writ petitioner and committed to return the same. Therefore, the learned Single Judge had found that the action of the appellants was per-se contemptuous and allowed the writ petition and directed the respondent to re-work the calculation by re-fixing the pay of the petitioner in Selection Grade and Special Grade in the post of Head Master during the year 1989-1999 and further based on the calculation, to pay whatever the amounts due to the petitioner, in terms of the orders passed in W.P.No.26074 of 2005.

4. In the light of the above facts, we are at a loss to



understand as to how the writ appeal is filed by the authorities, when they have not even obeyed the earlier orders passed by this Court. It is also admitted that the order of the learned Single Judge has also not been complied with till today, despite passage of more than a year.

5. In such circumstances, we are not inclined to entertain the appeal and accordingly, the order of the learned Single Judge is confirmed and the appellants are directed to calculate the amounts, taking into account the recovery made by them and also the amounts withheld from the terminal and pensionary benefits and disburse the amounts to the petitioner, within a period of three months from the date of receipt of a copy of this judgment.

6. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected M.P. is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Srn

To

- 1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
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- 2.The Director of School Education (Secondary),
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- 3.The District Educational Officer,
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GMR (CO)
GN(14/09/2021)