

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.29892 of 2014

M.Dharmadass

Assistant Elementary Education Officer(Retired)

No.13/7, Appasamy Pillaithottam

Geevalur Taluk,

Nagapattinam District.

..Petitioner

Vs.

1. The State of Tamilnadu,
Rep.by its Secretary to Government,
School Education Department
Secretariat,
Chennai - 9.
2. The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 6.
3. The District Elementary Educational Officer,
Nagapattinam, Nagapattinam District
4. The Accountant General (A & E)
Tamilnadu, Teynampet,
Chennai - 18.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to with held the amount of Rs.3,16,705/- towards loss caused to the respondent and pay the remaining retirement benefit amount of Rs.5,06,315/- to the petitioner in the light of the order dated 26.07.2013 of the 3rd respondent within a stipulated time as fixed by this Hon'ble Court.

For Petitioner

:Mr.V.Thirupathi

For Respondents 1 to 3

:Mr.C.Munusamy, SGP

For Respondent - 4

:Mr.V.Murali, Standing Counsel

ORDER

The prayer made in this writ petition is to issue a mandamus, directing the respondents to withhold the amount of Rs.3,16,705/- towards loss caused to the respondent and pay the remaining retirement benefit amount of Rs.5,06,315/- to the petitioner, in the light of the order dated 26.07.2013 passed by the 3rd respondent, within a stipulated time as fixed by this Court.

2. According to the petitioner, he was initially appointed as Secondary Grade Teacher on 07.10.1978 and his service was regularised with effect from 08.10.1988. After upgrading various positions, he retired from service on 30.04.2012. However, he was not paid retirement benefits, due to audit objection. While so, the third respondent by proceedings dated 12.12.2012 informed that the fourth respondent sanctioned a sum of Rs.8,23,020/- towards retirement benefits, however, it was directed to be paid only after the remittance of a sum of Rs.3,40,821/- to the Government account, since the petitioner, while working as Assistant Elementary Educational Officer in Puthalur Panchayat, Thanjavur District, from 22.12.2003 to 08.08.2006 and in Thalainayaru Panchayat Union, Nagapattinam District from 02.06.2008 to 30.04.2012, without obtaining audit clearance from the competent authority, sanctioned the arrears of pay to four Headmasters as per G.O.Ms.No.207 School Education Department, Dated 30.09.2008 and one Headmaster vide G.O.Ms.No.234 Finance Department, dated 01.06.2009, instead of notional benefits, thereby granting excess pay to those individuals and causing loss to the Government to the tune of Rs.3,40,821/-.

3. It is the further case of the petitioner that he made a representation dated 18.07.2013 to the respondents requesting to withhold the alleged loss of Rs.3,16,705/- from his retirement benefits and pay the remaining sum of Rs.5,06,315/- to him. Pursuant to the same, the third respondent by his proceedings dated 26.07.2013 passed an order, withholding a sum of Rs.3,16,705/- towards loss caused to the Government based on the audit objection and pay the remaining sum of Rs.5,06,315/- to the petitioner. However, till date, no amount has been paid to the petitioner, which compelled him to file this writ petition for the aforesaid prayer.

4. Upon notice, the respondents filed a detailed counter affidavit, wherein it is inter alia stated that the petitioner while discharging his function as Assistant Elementary Educational Officer, sanctioned a sum of Rs.3,40,821/- and disbursed the same to five Elementary school Headmasters which

they are not legally entitled to and thereby caused loss to the Government; being a pay disbursing authority, he should have taken due care and caution while sanctioning the amount to the individuals and this was found out by the auditing committee; based on the said report, the Director of Elementary Education has passed an order to withhold Rs.3,40,821/- and also sent a communication to the petitioner to recover the said amount from the individuals and repay the same to the Government account; but, the petitioner has not taken any steps to recover the amount from the said individuals, while he was in service and therefore, the third respondent sent a communication to recover the said amount from the petitioner's retirement benefits and paid to the Government account.

5.Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that the petitioner submitted a representation dated 25.08.2013 to the respondents for the same relief as sought in this writ petition and it would suffice, if the said representation is directed to be disposed of by the respondents, on the basis of the order dated 26.07.2013 passed by the third respondent.

6.There is no serious objection on the side of the respondents for granting such relief to the petitioner.

7.Considering the facts and circumstances of the case and having regard to the submissions now made by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondents, this Court, without going into the merits of the case, directs the respondent concerned to pass appropriate orders on the representation dated 25.08.2013 submitted by the petitioner, in accordance with law and also on the basis of the order dated 26.07.2013 passed by the third respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order.

8.With the aforesaid direction, this writ petition stands disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msv

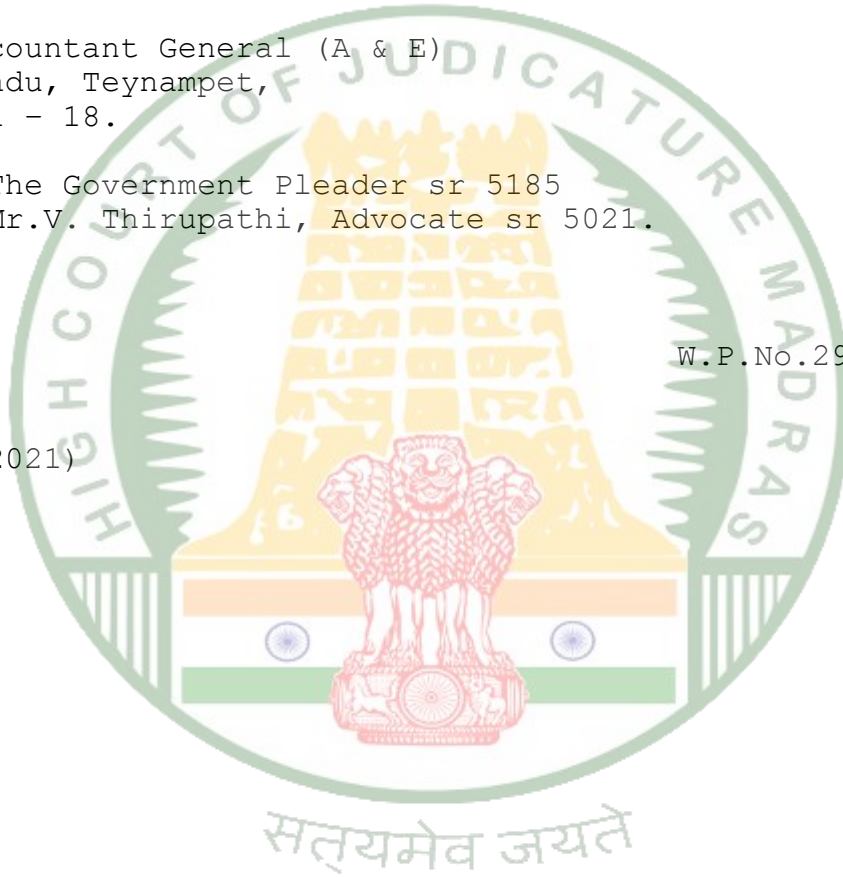
To

1. Secretary to Government,
School Education Department
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2. The Director of Elementary Education,
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Chennai - 18.

+1 CC to The Government Pleader sr 5185
+1 CC to Mr.V. Thirupathi, Advocate sr 5021.

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PP(CO)
SP(01/07/2021)



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