



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 27299 of 2010

H.T.Subban

...Petitioner

-vs-

1. Director of School Education
Chennai - 600 006.
2. Chief Educational Officer
Ooty.
3. District Educational Officer
Coonoor.
4. Secretary, HPF High School
Udhagamandalam-5
Nilagiri District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order in Na.Ka.No.05492/E2/2006 dated 28.11.2006 and the consequential order, Na.Ka.No. 5492/E2/2006 dated 20.08.2010 both passed by the Third Respondent, and quash the same, and direct the Respondents to confer all the consequential benefits on the Petitioner.

For Petitioner : Mr. P.Ganesan
For M/s. C.S. Assocaites
For Respondent : Mr. C.Harsha Raj (For R1 to R3)
Additional Government Pleader
No appearance (For R4)

O R D E R
(through video conference)

Heard Mr. P.Ganesan, Learned Counsel for the Petitioner and Mr. C.Harsha Raj, Learned Additional Government Pleader for the First to Third Respondents, and perused the materials placed on record, apart from the pleadings of the parties.



2. The Fourth Respondent is a recognized private school receiving grant in aid from the Government of Tamil Nadu for payment of salaries to its teachers. The Petitioner, who was working as teacher in the said school and later promoted as its headmaster, retired from service on 30.04.2010 when he attained the age of superannuation. The Third Respondent by an Order in Na. Ka. No. 5492/E2/2006 dated 20.08.2010 had directed the Fourth Respondent to recover a sum of Rs.3,77,160/- from the Petitioner towards excess fees collected by the Fourth Respondent from the students who studied in English medium in its school along with another sum of Rs.15,063/- for which there was no voucher referring to an earlier order in Na. Ka. No. 5492/E2/2006 dated 28.11.2006 sent by the Third Respondent to the Fourth Respondent in that regard. Despite representations made, the entire terminal benefits that were due to the Petitioner had not been paid on the ruse that the said recoveries had to be made from him.

3. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the aforesaid orders of the Third Respondent sent to the Fourth Respondent which have the effect of withholding a major part of his terminal benefits and for consequential directions to release payment of the same.

4. The Third Respondent has filed Counter-Affidavit dated 20.01.2012 stating that the Petitioner by letter dated 07.10.2005 had accepted that an excess amount of Rs.150/- per student had been collected with the approval of the Parents and Teachers Association and another excess amount of Rs.60/- per student towards tuition fees from the students, who were studying in English medium in its school, had been collected and late remittance had been made on 02.08.2005. It has been further pointed out that since the Petitioner had belatedly handed over the pass-books and relevant records on 30.12.2011 to the headmaster who had succeeded him, the accounts could not be verified and scrutinized in time by the Third Respondent. In short, the withholding of the terminal benefits of the Petitioner is sought to be justified by fastening responsibility on the Petitioner for the excess collection of fees by the Fourth Respondent.

5. It is also borne out of the record that after the receipt of the said letter dated 20.08.2010, the Fourth Respondent by letter dated 08.09.2010 informed the Third Respondent that by an earlier letter dated 06.07.2009, it had been pointed out that the Fourth Respondent does not have any concrete evidence to substantiate the allegations, that the audit report of the relevant years are clear without any remarks, and that it had been requested to treat the matter as closed and give clearance for relieving the Petitioner from



service on retirement and make payment of the terminal benefits due to him.

6. Having regard to the rival contentions of the parties, it is evident that even according to the First to Third Respondents, the excess collection of fees had been made by the school of the Fourth Respondent, and was not by the Petitioner in his individual capacity. It is also not in dispute that inasmuch as the Fourth Respondent is a Private School, the First to Third Respondents cannot exercise any disciplinary control over the teachers and other staff of the Fourth Respondent and it is only the Fourth Respondent who has been empowered to take action against the Petitioner if there was any misconduct committed by him. When the Fourth Respondent has already conveyed to the Third Respondent that the Petitioner is not liable for any monetary loss caused, it is not understandable as to how the terminal benefits of the Petitioner could not be released for that reason. Moreover, there is nothing that precludes the First to Third Respondents to initiate proceedings for recovery of any amount that may be due from the Fourth Respondent in the manner recognized by law.

7. In that view of the matter, the impugned order in Na. Ka.No.5492/E2/2006 dated 20.08.2010 passed by the Third Respondent cannot be sustained and is quashed. The withheld amount of terminal benefits due to the Petitioner shall be paid to him along with interest at the rate fixed under the relevant rules and if there is no such provision in that regard, interest shall be calculated at the rate of 6% per annum from the date on which the Petitioner had attained the age of superannuation till its payment. A working sheet showing the calculation of the amount due shall be furnished to the Petitioner while making such payment and a report of the compliance shall be filed in that regard by 31.03.2022 before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Maya/dm

To

1. Director of School Education
Chennai - 600 006.



2. Chief Educational Officer
Ooty.

3. District Educational Officer
Coonoor.

4. Secretary, HPF High School
Udhagamandalam-5
Nilagiri District.

COPY TO
The Registrar Judicial
High Court, Madras 104

+1cc to Mr.P.Ganesan, Advocate, SR.NO.5959

W.P. No. 27299 of 2010

MJ (CO)
KKV/02/02/2022