



W.P.(MD).No.17003 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.17003 of 2022

E.Mary Amala Bai

... Petitioner

Vs.

- 1.The Divisional Accounts Officer (Audit),
School Education Department,
Madurai – 625 002.
- 2.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 3.The District Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The Headmaster,
Kamaraj Municipal Higher Secondary School,
Pettai – 627 010,
Tirunelveli District.
- 5.The Treasury Officer,
District Treasury,
Tirunelveli.

...Respondents

*(R-5 is suo motu impleaded vide Court order dated 22.08.2022 passed in W.P.
(MD).No.17003 of 2022)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to disburse the remaining retirement benefits to the petitioner around sum of Rs.5,70,000/- (Five Lakhs and Seventy Thousand only) viz., surrender of earned and unearned leave, 10% provident fund, special provident fund 2000(SPF2000).

For Petitioner : Mr.A.Ajith Geethan
For R-1 to R-3 and R-5 : Mr.A.Kannan,
Additional Government Pleader.

ORDER

The petitioner herein had retired from the post of PG Assistant on 31.05.2019. When the retirement benefits were not settled to her, she had filed a Writ Petition in W.P.(MD).No.15365 of 2020 and by an order, dated 04.11.2020, this Court had directed the respondents to disburse a sum of Rs.9,00,000/-, after adjusting the audit objection amount of Rs.5,00,000/-. In consequence to the order passed by this Court, it is stated that a sum of Rs.8,30,000/- was paid to the petitioner and the balance amount of Rs.5,70,000/- has been held owing to the audit objections raised.



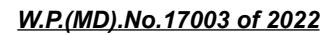
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2. It is not in dispute that the petitioner herein was permitted to retire peacefully and that there are no departmental proceedings pending against her.

If that be so, even assuming that there are audit objections against the petitioner herein, such an amount cannot be recovered in the absence of any departmental action. Further more, no recovery can be made from a pensioner in view of the various decisions of the Hon'ble Supreme Court, including the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others, reported in (2015) 4 SCC 334***, wherein, it is held that recovery from pensioners, owing to the mistake committed by the Department, is impermissible.

3. Since the disbursal of the retirement benefits requires to be done on the basis of a proposal from the Headmaster of the School to the Treasury Officer of the District, the Treasury Officer, District Treasury, Tirunelveli is *suo motu* impleaded as a party respondent in the present Writ Petition.

4. In this regard, the petitioner is granted liberty to make a fresh representation to the fourth respondent herein, seeking for disbursal of the balance of the retirement benefits payable to her. On receipt of the same, the fourth respondent herein shall send a proposal, seeking for payment of the balance retirement benefits of the petitioner, to the Treasury Officer, District



5. This Writ Petition is disposed of accordingly. There shall be no order as to costs.

Index : Yes / No
Internet : Yes/ No
Lm

1.The Divisional Accounts Officer (Audit),
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Madurai – 625 002.

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

3. The District Educational Officer,
Tirunelveli,
Tirunelveli District.

4.The Treasury Officer,
District Treasury,
Tirunelveli.



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M.S.RAMESH, J.

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