



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4857 of 2017

and

W.M.P. (MD) .Nos.3889, 3890, 3891 of 2017 and 525 of 2018

C.Pazhamudhir Pangi

... Petitioner

Vs.

1.The Chief Elementary Educational Officer,
Chief Elementary Educational Office,
Trichy - 620 015.

2.The District Elementary Educational Officer,
District Elementary Educational Office,
Sethuram Colony,
Srimathi Complex,
Trichy - 620 020.

3.The President,
Manachanallur Range Teachers Co-operative
Thrift and Credit Society Limited, - R.1480,
Manachanallur,
Trichy District.

4.The Assistant Elementary Educational Officer,
Assistant Elementary Education Office,
Manachanallur,
Trichy - 620 020.

... Respondents

*(R-4 is impleaded vide Court Order dated 27.04.2022 in W.M.P. (MD) .
No.6647 of 2017 in W.P. (MD) .No.4857 of 2017)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the third respondent in his Recovery Order dated 25.02.2017 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.D.Selvanayagam

For R-1, R-2 and R-4: Mr.V.Om Prakash,
Government Advocate (Civil Side)

For R-3 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.



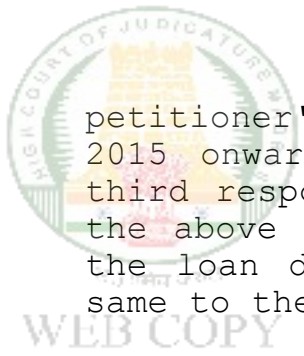
ORDER

This Writ Petition has been filed to quash the impugned order dated 25.02.2017.

2. The petitioner was appointed in the post of Secondary Grade Teacher on 19.06.1992 and was promoted as Primary School Headmistress on 28.06.2006 and has served in the post for the past 26 years. The contention of the petitioner is due to her family expenditure, she has availed housing loan as well as hand loan from the third respondent Society and the petitioner's salary was attached by the Court order and the same was deducted at Rs.18,000/- started from December 2015 onwards. After payment of loan, the net salary that was fixed by the second respondent is only Rs.13,524/-. Thereafter, the second respondent never disbursed the salary and the same was admitted by the respondent. From December 2015 onwards, the petitioner's salary was credited on 31.12.2015 at Rs.5,000/- alone and the remaining salary of Rs.8,529/- was not disbursed till date. In January 2016, Rs.8904/- was credited and the remaining salary of Rs.4620 was not disbursed. In the month of February, Rs.12,009/- was credited and remaining salary of Rs.1517/- was not disbursed till date. Therefore, the total arrear amount of salary of Rs.14,661/- was not disbursed by the second respondent. The petitioner submitted a representation to the respondents on 27.01.2016.

3. The petitioner preferred W.P.(MD).No.5688 of 2016 for the issuance of Writ of Mandamus directing the second respondent to pay salary as per the Salary Certificate issued by the respondent on 04.02.2016 and pay arrear salary of Rs.14,661/- with interest of 6%. The contention of the petitioner is that the second respondent has committed a mistake of non payment of loan dues to the third respondent Society which was the loan availed by the petitioner on 16.12.2014 for a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) from 16.12.2014 onwards the petitioner loan repayment amount was deducted from the salary as monthly dues of Rs.15,543/- upto November 2015, the deduction in the salary by the second respondent for the past one year the repayment regularly taken from the salary of the petitioner in that effect the Society was also issued a receipts every month. However, to the shock of the petitioner, last 3 months namely, December 2015, January 2016 and February 2016, the petitioner loan dues was not deducted by the second respondent. The third respondent issued notice to the petitioner dated 08.03.2016 calling upon the petitioner to pay the arrears amount of Rs.25,774/- and monthly interest of Rs.21,417/-. If the amount was not paid by the petitioner within 10 days, the necessary action will be taken under the Tamil Nadu Co-operative Society Act, 1982 and Rules 1988. The petitioner submitted a representation dated 03.03.2016. The contention of the petitioner is that the second respondent Office has not disbursed the loan repayment amount to the third respondent.

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petitioner's loan due amount to the third respondent from December 2015 onwards. The second respondent has also undertaken to the third respondent as if he is ready to recover any pending dues in the above loans. Therefore, the second respondent ought to release the loan dues from December 2015 to February 2016 and settle the same to the third respondent.

4. The petitioner filed W.P.(MD).No.7413 of 2016 directing the second respondent to settle the loan dues pending principal amount of Rs.25,774/- and Rs.21,417/- of interest, total Rs.47,491/- payable to the third respondent from December 2015 to February 2016. The said case came up for admission on 18.04.2016 and this Court ordered notice of motion returnable by four weeks and till this date, there is no clear instructions from the respondent. The petitioner lodged a complaint before the Inspector of Police, Vigilance and Anti-Corruption, Trichy on 03.11.2016 against the second respondent for committing misappropriation the petitioner's salary. In the meanwhile, the third respondent issued a notice dated 25.02.2017 ordering recovery of the petitioner's salary from March 2017 onwards without any basis. Hence the petitioner challenged the order passed by the third respondent dated 25.02.2017. The Writ Petition was admitted and this Court has granted an interim stay of recovery.

5. The third respondent has filed a counter along with the Vacate Stay Petition. The contention of the respondent is that the petitioner obtained loan for Rs.7,00,000/- on 16.12.2014 and the principal is payable in 100 equal monthly installments at Rs.7,000/-. The petitioner has also obtained festival advance from the third respondent Society on 30.11.2015 amounting to Rs.20,000/- and the same has to be recovered in 10 installments from the petitioner's salary at Rs.2,000/- per month. Both the above loans carry an interest of 13.5% per annum. The Assistant Elementary Education Officer, Manachanallur is the Pay Disbursing Officer of the petitioner and the amounts payable to the third respondent Society were promptly recovered upto the month of November 2015 and paid. The Assistant Elementary Educational Officer received a Court Order from the First Additional Subordinate Judge wherein it is stated that the petitioner herein has obtained a loan from one Kamalam and has not repaid the same and the said Kamalam has filed a suit in O.S.No.132 of 2010 and the same was allowed. Based on the decree obtained, the said Kamalam has also filed E.P.No.375 of 2014. Hence the Additional Sub Court ordered for the recovery of the decretal amount to the tune of Rs.2,94,680/- and as per the order, an amount of Rs.18,000/- has to be recovered in 16 installments and the balance amount of Rs.6680/- as 17th installment. The Assistant Educational Officer in his proceedings dated 14.12.2015 has ordered for the deduction of amount as stated above. Because of the deduction of Rs.18,000/- from the salary of the petitioner from the month of December 2015, the amount due to the third respondent Society in respect



of Medium Term Loan and Festival Loan were not recovered from the month of December 2015 for the reason that taken home salary has fallen below 1/3 of total salary. Hence the third respondent Society by letter dated 03.02.2016 informed the Assistant Elementary Educational Officer regarding the non-recovery of dues from the petitioner. Further notice was issued on 08.03.2016 to the petitioner.

6. When the Writ Petition is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner is willing to settle the entire loan which she has obtained from the third respondent Society. The learned counsel for the respondents circulated a detailed calculation sheet dated 16.03.2022. According to the said calculations, from 01.12.2015 to 31.03.2022, the petitioner is liable to pay the entire amount along with the interest to the tune of Rs.11,59,904/- (Rupees Eleven Lakhs Fifty Nine Thousand and Nine Hundred and Four only). The learned counsel for the petitioner submitted that the petitioner is willing to settle the entire amount. Therefore, the petitioner is directed to pay the entire amount in six (6) equal monthly installments. The first installment shall start from 02.05.2022. The petitioner is liable to pay the interest as per the rate applicable.

7. With the above observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

- 1.The Chief Elementary Educational Officer,
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- 4.The Assistant Elementary Educational Officer,
Assistant Elementary Education Office,
Manachanallur,
Trichy - 620 020.

+1 CC to M/s.SPL.GP. (SR-22102[F] dated 28/04/2022)

+1 CC to M/s.SPL. GP (SR-23063[F] dated 29/04/2022)

**ORDER MADE IN
W.P. (MD) .No.4857 of 2017
27.04.2022**

PKP/01.06.2022/5P/7C