



WEB COPY



W.P.No.25458 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25458 of 2012

C.Jeevarathinam

... Petitioner

-Vs-

1. The District Educational Officer,
Kancheepuram.

2. The Additional Assistant Elementary
Educational Officer,
Thirukalikundram – 603 109.

3. The Secretary,
C.G.B.V.S. Middle School,
Nemmeli, Thirukalukundram Taluk,
Kancheepuram District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the second respondent to consider the petitioner representation made to him on 02.05.2011 and direct him to take steps for the payment of salary for the suspension period of the petitioner from 07.06.2011 to 31.03.2003 and also to pay the petitioner's increments in his salary from 2000 to 2008 as per the recommendations made by the 5th and 6th Pay Commission.

For Petitioner	: Mr.S.Balasubramanian
For R1 and R2	: Mr.K.H.Ravikumar Government Advocate
For R3	: Notice Served



W.P.No.25458 of 2012

ORDER

This Writ Petition has been filed for direction directing the second respondent to consider the petitioner's representation on 02.05.2011 and to direct the second respondent to take steps for the payment of salary for the suspension period of the petitioner from 07.06.2011 to 31.03.2003 and also to pay the petitioner's increments in his salary from 2000 to 2008 as per the recommendations made by the 5th and 6th Pay Commission.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the first and second respondents.

3. The petitioner was employed as Assistant Teacher in the third respondent school. During his service, he was implicated in a criminal case in SC.No.306 of 2003 on the file of the Assistant Principal and Sessions Court, Chengalpattu for the offences under Sections 148, 307, 324 r/w 149 IPC and Section 3(1) of TNPPDL Act. However, the petitioner was not found guilty and he was acquitted from the criminal case. In the meanwhile, he was suspended from service on 07.06.2001. In pursuant to the order passed by this Court in W.P.No.34537 of 2002, he was reinstated into service on 01.04.2003. After acquittal from criminal case, the period of suspension viz., 07.06.2001 to



W.P.No.25458 of 2012

31.03.2003 has been regularized by an order dated 22.12.2009 by the second respondent. However, even after the attainment of superannuation, he was not paid salary for the said period. Therefore, the petitioner made a representation and the same was not considered.

4. A perusal of the counter filed by the second respondent revealed that after the criminal case had ended in acquittal, the petitioner is entitled for salary after deducting the subsistence allowance which was paid during his suspension. The second respondent in its proceedings dated 22.12.2009 stated that the third respondent Management should pay from its own funds, the salary due for the period of suspension after deducting the subsistence allowance. Further, the period of suspension shall not be more than four months as per the Tamil Nadu Recognized Private Schools Regulation (Rules), 1974. Therefore, the second respondent had rightly ordered that the third respondent Management is liable to pay the salary due for the suspension period of the petitioner.

5. Rule 17(3)(i) says that where after enquiry, including the appeal, suspension is found to be not justified, the Management shall remit the amount of subsistence allowance paid to the teacher or other person, employed in that



W.P.No.25458 of 2012

private school to the Government in one lumpsum under the appropriate head of account. The Educational Agency shall however, pay such teacher or other person the full pay and allowance he would have drawn but for person his suspension less the amount of subsistence allowance already paid to the teacher or other person for the suspension.

6. Therefore, the petitioner is entitled for full salary for his suspension period viz., 07.06.2001 to 31.03.2003 and the increments from 2000 to 2008 after deducting the subsistence allowance already paid to the petitioner. Therefore, the third respondent is liable to pay full salary during the suspension period after deducting the subsistence allowance which was already paid, with interest at the rate of 12% per annum, within a period of eight weeks from the date of receipt of a copy of this order.

7. Insofar as the increments are concerned, for the year 2000 to 2008, the third respondent is directed to send necessary proposal to the second respondent, within a period of eight weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to sanction the increment and disburse the same, within a period of twelve weeks thereafter.



W.P.No.25458 of 2012

WEB COPY 8. In view of the above, this writ petition is allowed. No costs.

23.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

mn



W.P.No.25458 of 2012

G.K.ILANTHIRAIYAN, J.

mn

To

1. The District Educational Officer,
Kancheepuram.
2. The Additional Assistant Elementary
Educational Officer,
Thirukalikundram – 603 109.
3. The Secretary,
C.G.B.V.S. Middle School,
Nemmeli, Thirukalukundram Taluk,
Kancheepuram District.

W.P.No.25458 of 2012

23.08.2023