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W.P.No.2735 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2023

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.2735 of 2012

P.Jagannathan

...Petitioner.

Versus

1.The Joint Director of School Education (Personnel)
College Road, Chennai – 600 006.

2.The Chief Educational Officer,
Chennai District,
Panagal Buildings,
Chennai – 600 015.

3.The District Educational Officer,
Chennai North,
Chennai – 600 008.

...Respondents.

Prayer: This writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the third respondent issued in Na.Ka.No.3426/A/09 dated 22.2.2010 and the consequential order of the third respondent issued in Na.Ka.No.3718/A1/2010 dated 12.07.2011 and quash the same and direct the third respondent to restore the petitioner's pay fixation as per this proceedings issued in Mu.Mu.No.2629/A1/09 dated 30.10.2009 and direct the third respondent to refund the sum of Rs.55,573/- with interest at the rate of 12% per annum and grant all consequential retirement benefits to the petitioner.



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For petitioner : Mr.J.Lakshmi Narayanan

For respondents : Mr.A.Anandan
Government Advocate

ORDER

This writ petition is filed questioning the proceedings issued by the 3rd respondent bearing Na.Ka.No.3426/A/09 dated 22.2.2010 and Na.Ka.No.3718/A1/2010 dated 12.07.2011 respectively and sought for a consequential direction to restore the petitioner's pay as fixed through proceedings Mu.Mu.No.2629/A1/09 dated 30.10.2009 and to refund a sum of Rs.55,573/- with interest of 12 % per annum.

2. The learned counsel for the respondents filed a common counter-affidavit stating that the impugned proceedings dated 22.02.2010 and 12.07.2011 were issued under a mistaken impression and the said proceedings were subsequently that is after filing of the present writ petition were cancelled by issuing proceedings in Na.Ka.No.3718/A1/2010 dated 25.06.2012 and the amounts that were payable to the petitioner were also paid to the petitioner. The relevant paragraphs of the counter-affidavit filed by the respondents read as under:

“9. With regard to the averments made in para 9 of the affidavit, it is respectfully submitted that according



to the instructions issued in proceedings in Na.Ka.No.6242/A2/2011, dated 26.11.2011 by the 1st respondent, the 3rd respondent had revised and re-fixed the pay of the petitioner vide proceedings Na.Ka.No.3718/A1/2010, dated 25.06.2012 (Copy enclosed) and drawn and paid the arrears of salary of Rs.55,573/- on Rs.6,134/- and arrears of duty salary of Rs.1,540/- has also been drawn by the 3rd respondent and paid to the petitioner on 28.06.2013 (copy enclose) The revised pension proposal was sent to the Accountant-General, Chennai by the 3rd respondent on 28.07.2012 and the Accountant-General, Chennai has admitted the revised pension proposal and authorized the payment arrears of pension on 21.11.2012. Hence, no dues are pending to the petitioner. It is further submitted that there is no wanton or willful action committed by the 3rd respondent in this regard.

10) With regard to the averments made in para 10 of the affidavit, it is respectfully submitted that, the orders issued in proceedings Na.Ka.No.3426/A1/09, dated 22.02.2010 and Na.Ka.No.3718/A1/2010, 12.07.2011 of the 3rd respondent were cancelled by his proceedings Na.Ka.No.3718/A1/2010 dated 25.06.2012 (Copy enclosed) and the arrears of salary of Rs.55,573/- has been drawn and paid to the petitioner on 05.06.2013. No dues are pending to the petitioner.”

3. In the light of the above statement made by the learned counsel for the respondents, the main cause in this writ petition does not survive. However it is contended by the learned counsel for the petitioner that the amounts that were payable to the petitioner in the year 2010 were paid in the year 2013 thereby the petitioner is deprived of enjoying of said money



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for more than a period of three (3) years and therefore, claimed that the petitioner is entitled for payment of reasonable interest at the said amounts, which were paid belatedly. Further he also contented that there are certain other amounts that were payable to the petitioner but were not paid.

4. In the light of the undisputed facts, that the petitioner was deprived of the amounts which the petitioner is legitimately entitled and were paid belatedly in the year 2013, though he was entitled for such amount in the year 2010 because of the mistake committed by the respondents, the petitioner is entitled to be compensated to an extent of such belated payment of said amounts.

5. In the considered view, the amounts that were belatedly paid are the amounts payable to the petitioner but not paid on time is violative of Article Right to Property incorporated under Article 300 A of the Constitution of India. Hence the petitioner is entitled for payment of interest at the interest rate of 7.5 % for the delayed period and the respondents are liable to pay the said interest amount to the petitioner. Accordingly liberty is granted to the petitioner to submit a representation before the respondents by making a claim of interest at the rate of 7.5 % on the amounts belatedly paid to the petitioner and on such submission of



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the representation by the petitioner, the respondents are directed calculate the interest on the delayed payments on the amounts paid belatedly and to pay the same as expeditiously as possible within a period of three (3) months from the date of submission of the representation by the petitioner before the respondent. The petitioner is also granted liberty to make a request of payment of any other amounts if due to the petitioner and the same shall also be considered by the respondents along with the claim of interest and pass orders thereon within a stipulated time fixed by this Court above.

6. Accordingly this writ petition stands disposed. No costs. Connected Miscellaneous petitions are closed if any.

14.12.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation Case: Yes/No

nst

MUMMINENI SUDHEER KUMAR,J.



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nst

To:

- 1.The Director of Social Welfare Department,
Cheapuk, Chennai – 600 005.
- 2.The District Collector,
Salem, Salem District.
- 3.The Commissioner,
Pethanayakan Palayam Panchayat Union,
Aathur Taluk, Salem District.

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