



WEB COPY



W.P No.14633 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.14633 of 2021

and

WMP.No.15514 of 2021

G.Dhanam

... Petitioner

Vs.

1.The State rep by,
The District Collector cum Panchayat Inspector,
O/o the Collectorate,
Nallipalayam (Po)
Namakkal Taluk and District.

2.The Commissioner,
Kabilarmalai Panchayat Union,
Kabilarmalai Post Office, P.Velur Taluk,
Namakkal District.

3.The Headmaster,
Panchayat Union Elementary School,
Vengamedu, P.Velur Taluk and District,
Namakkal District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorarified Mandamus, calling for the records



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relating to the order of the 2nd respondent's letter in Na.Ka.No.1181/2020/A4 dated 03.07.2020 and recovery order of the 1st respondent in Letter Na.Ka.No.7985/2020/SAUD-1 dated 29.06.2020 and to quash the same and consequently direct the 1st respondent to pay petitioner's retirement dues and pension benefits and all other attendant benefits.

For Petitioner : Mr.S.Vivekanandan

For Respondents : Mr.G.Nanmaran,
Special Government Pleader for R1
: Mr.C.Selvaraj,
Addl.Government Pleader for R2

ORDER

This Writ Petition has been filed seeking the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd respondent's letter in Na.Ka.No.1181/2020/A4 dated 03.07.2020 and the recovery order of the 1st respondent in Letter Na.Ka.No.7985/2020/SAUD-1 dated 29.06.2020 and to quash the same and consequently direct the 1st respondent to pay the petitioner's retirement dues, pension benefits and all other attendant benefits.



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2. The petitioner is said to have been working with the third respondent as a midday meal cook assistant and has actually got superannuation as on 30.06.2019. However, due to the negligence on the part of the second respondent, she was allowed to continue on duty until 30.06.2020 and the salary was also paid to her. However, after she was allowed to retire on 30.06.2020, the second respondent has issued an impugned proceeding dated 03.07.2020 for recovering the salary and all other attendant benefits given to her for the period between 01.07.2019 to 30.06.2020. Hence, the petitioner has filed this Writ Petition challenging the same.

3. Heard the submissions made by both side learned counsels and perused the materials available on record.

4. The learned counsel for the petitioner submitted that it was not the mistake on the part of the petitioner that she was working one year in excess of her superannuation, but due to the negligence on the part of the respondents.

5. It is not the claim of the respondents that the petitioner came and attended work even after the order of retirement was served upon



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her. For the reasons best known to the respondents, the petitioner was not given the order of retirement and in that case, the petitioner has no other option except to continue and to attend her work. The respondents, acting at their own sweet will had terminated the services of the petitioner on 30.06.2020 by serving an order for retirement. Hence, the petitioner has received the salary only for work performed by her during the entire period between 01.06.2019 to 30.06.2020. No one had questioned her about the authority to continue to work with the third respondent; it is unfair on the part of the second respondent to claim the recovery of salary received by the petitioner during the relevant period.

6. For the mistakes on the part of the respondents, the innocent petitioner should not be affected. It is made clear that the respondents shall not deduct the salary that she received between the period from 01.07.2019 to 30.06.2020 from her retirement benefits. To put it another way, the respondents shall not do what they can do directly or indirectly.

7. It is submitted by the learned counsel for the petitioner that the respondents did not settle her retirement benefits also. Once the retirement order is issued, undoubtedly the respondents have the



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obligation to settle the retirement benefits of the petitioner, which is her legal right.

Hence, this Writ petition is **allowed** and the order of the 2nd respondent's letter in Na.Ka.No.1181/2020/A4 dated 03.07.2020 and the recovery order of the 1st respondent in Letter Na.Ka.No.7985/2020/SAUD-1 dated 29.06.2020 are quashed. The first respondent is directed to pay the petitioner's retirement dues, pension benefits and all other attendant benefits within a period of four weeks from the date of receipt of a copy of this order, in accordance with the law. No costs. Consequently, the connected miscellaneous petition is closed.

01.11.2023

Index : Yes

Internet : Yes/No

jrs



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R.N.MANJULA, J.

jrs

To

- 1.The District Collector cum Panchayat Inspector,
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