



W.A(MD)No.270 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.270 of 2023
and
C.M.P(MD)No.3231 of 2023**

1.The State of Tamil Nadu,
Rep. by its Principle Secretary to Government
Special Programme Implementation Department,
St. George Fort,
Chennai – 9.

2.The Director of School Education,
O/o.the School Education Department,
College Road,
Chennai – 6.

3.The Chief Educational Officer,
O/o.the Chief Educational Officer,
Palani Road,
Dindigul.

... Appellants/Respondents

-VS-

P.Vasantha Stella Bai,
Headmistress(retired),
Govt. Higher Secondary School,
Kosukurichi,
Natham Taluk,
Dindigul District.

... Respondent/Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.21360 of 2022 dated 04.11.2022 and allow the writ appeal.



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For Appellants : Mr.D.Sadiq Raja,
Additional Government Pleader

For Respondent : Mr.Mohammed Imran for
M/s.Ajmal Associates

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JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Being aggrieved by the order of the Writ Court, dated 04.11.2022 made in W.P(MD)No.21360 of 2022, the State is on appeal.

2. It is seen that pursuant to the orders of this Court made in W.P(MD)No.4343 of 2014 and 4127 of 2014, a Committee consisting of the Commissioner of School Education, as Chairman, Inspector General of Police North Zone, Inspector General of Police South Zone and Special Government Pleader, as members, was constituted vide G.O.(Ms)No.102 School Education (SE2(2) Department, dated 07.07.2021.

3. The Commissioner of School Education being the Chairman is required to file a report as to the action actually taken by the Committee on the recommendations of this Court. Such report shall be filed by 05th of April, 2023.



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4. As far as this writ appeal is concerned, we do not find any merit in this writ appeal since the order of recovery is passed after this Court passed an order for payment of Earned Leave and other benefits to the petitioner in W.P(MD)No.21360 of 2022.

5. Mr.D.Sadiq Raja, learned Additional Government Pleader, would attempt to take shelter under the liberty given by this Court in W.P(MD)Nos.4343 of 2014 and 4127 of 2014, to launch recovery proceedings. We find that recovery proceedings are not bonafide. Though the order in W.P(MD)Nos.4343 of 2014 and 4127 of 2014 was passed on 09.11.2020 the notice calling upon the respondent to explain about the loss of computers and show cause against the recovery order was issued on 22.09.2022 and despite the fact the respondent sent a reply dated 26.09.2022, no order was passed till 15.12.2022. Therefore, it is very clear that recovery orders were kept in abeyance awaiting the orders of this Court in W.P(MD)No.21360 of 2022 filed by the respondent seeking retirement benefits. Having failed to convince this Court to withhold the retirement benefits, the authority has passed the recovery order on 15.12.2022.

6. As rightly pointed out by the learned counsel for the respondent, the recovery order passed after this Court had directed payment of Earned



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Leave salary, Unearned Leave salary and Special Provident Fund, is a *malafide* exercise of power with the sole object of overreaching this Court.

7. In view of the above, we do not see any reason to entertain this appeal. This Writ appeal fails and it is accordingly, dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

8. The appellant is granted four weeks time to comply with the order of the learned Single Judge regarding payment of Earned Leave and other benefits to the respondent.

9. Post on **05.04.2023**.

[R.S.M., J.]

[L.V.G., J.]

16.03.2023

NCC :Yes/No
Index :Yes/No
PM



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