



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.10301 of 2018
and
W.M.P(MD)Nos.9317 to 9319 of 2018
and
W.P(MD)No.14010 of 2020

W.P(MD)No.10301 of 2018:

V.Gireesachandran

... Petitioner in both W.Ps
Vs.

1.The Accountant General,
(Accounts & Entitlement),
No.361, Anna Salai,
Chennai – 18.

2.The Director of Elementary Education,
DPI Campus, College Road,
Chennaai – 600 006.

3.The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

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



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

relating to the impugned order passed by the first respondent in No.P11/11121550/3/PPO No.R1121550 dated 16.03.2018 with annexure dated 16.03.2018 and quash the same and consequently directing the respondents to disburse the retirement and pensionary benefits by giving effect to the original order of first respondent in No.P11/11121550/3/R1121550 dated 14.02.2018.

For Petitioner : Mr.B.Saravanan
For R-1 : Mr.P.Gunasekaran
For R-2 & R-3 : Mr.J.Ashok,
Additional Government Pleader

W.P(MD)No.14010 of 2020

V.Gireesachandran

... Petitioner

Vs.

- 1.The Accountant General,
(Accounts & Entitlement),
No.361, Anna Salai,
Chennai – 18.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
- 3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

4.The District Educational Officer,
Thuckalay,
Kanyakumari District.

(Previously known as
The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District).

5.The Block Educational Officer,
Rajakkamangalam,
Erumpukkadu Post,
Kanyakumari District.

6.The Sub-Treasury Officer,
Sub Treasury Office,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to issue sanction order to the 6th respondent office to release the petitioner's DCRG and encashment of Earned/unearned leave salaries based on the pension order passed by the first respondent in P11/11127997/3/R1121550 dated 17.07.2020 and further directing the 6th respondent to release those benefits within the time frame stipulated by this Hon'ble Court .



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

For Petitioner	: Mr.B.Saravanan
For R-1	: Mr.B.Gunasekaran
For R-2 to R-6	: Mr.J.Ashok, Additional Government Pleader

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, the writ petitions are disposed of by way of this common order.

2. W.P(MD)No.10301 of 2018 has been filed to quash the impugned order passed by the first respondent in No.P11/11121550/3/PPO No.R1121550 dated 16.03.2018 with annexure dated 16.03.2018 and consequently, to direct the respondents to disburse the retirement and pensionary benefits by giving effect to the original order of first respondent in No.P11/11121550/3/R1121550 dated 14.02.2018.

3. W.P(MD)No.14010 of 2020 has been filed seeking for a direction to the third respondent to issue sanction order to the 6th respondent office to release the petitioner's DCRG and encashment of Earned/unearned leave salaries based on the pension order passed by the

4/12



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

first respondent in P11/11127997/3/R1121550, dated 17.07.2020 and to further direct the 6th respondent to release those benefits within a stipulated period.

4. The case of the petitioner is that the petitioner was initially appointed as a Secondary Grade Teacher on 10.10.1983 and after having completed 35 years of unblemished service, he retired from service on 30.04.2018 as Assistant Elementary Educational Officer. As per G.O.Ms.57 Finance(Pay Cell-II), Department, dated 28.01.1991 and Rule 4(3) of the Tamilnadu Revised Scale of Pay Rules 1989, if the scale of pay in the lower post/substantive post, is higher than that of the promotional post, whether it is Selection or Special Grade, then the employee is entitled to continue his scale of pay fit for the lower post(Selection/Special Grade). In pursuant to G.O.Ms.No.57, another Government Order in G.O.Ms.No.590 Finance (Pay Cell) Department, dated 01.08.1992, the said principle became permanent Rule. In the light of those Government Orders, the petitioner was granted the benefit of Rule 4(3) and as such, he was permitted to get his scale of pay in the



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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lower post, namely, the Primary School Headmaster(Selection Grade) in the promotive post namely Middle School Headmaster(Ordinary Grade) and to that effect, administrative order, dated 23.07.2008, had also been passed by the third respondent. Subsequently, the petitioner was allowed to draw service/monetary benefits of regular increment etc., till the end of his service dated 30.04.2018. While being so, at the end of his service, pension proposal was forwarded to the first respondent through proper channel by calculating the pensionary benefits by taking into account the last pay drawn as Rs.82400/-. Subsequently, vide order, dated 14.02.2018, pension proposal was accepted by the first respondent. However, without giving notice to the petitioner, the first respondent modified his earlier order, dated 14.02.2018 and passed the impugned order, dated 16.03.2018 and thereby, the petitioner's last drawn pay was reduced from Rs.82400/- to Rs.76800/-, which is in clear violation of principles of natural justice. Hence, challenging the same, the petitioner has filed W.P(MD)No.10301 of 2018 with the aforesaid prayer.



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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5. The learned counsel appearing for the petitioner would submit that the first respondent has passed the impugned order without giving opportunity to the petitioner by reducing the scale of pay of the petitioner, which is in clear violation of principles of natural justice. However, in view of the interim order granted by this Court in W.P(MD)No.10301 of 2018, dated 28.04.2018, subsequent order dated 17.07.2020 was passed by the first respondent, by accepting the request made by the petitioner. Therefore, the prayer made in W.P(MD)No.10301 of 2018, has become infructuous.

6. The learned counsel appearing for the petitioner would submit that the petitioner had already received his retiral benefits except DCRG and Encashment of leave benefits. He would further submit that even after passing orders by the first respondent, dated 17.07.2020, no sanction order was passed by the Chief Educational Officer to the sixth respondent Sub-Treasury Officer, to release the DCRG and Encashment of Earned/Unearned Leave salaries. Hence, the petitioner has filed the subsequent writ petition in W.P(MD)No.14010 of 2020 with the aforesaid prayer.



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

WEB COPY

7. The learned standing counsel appearing for the first respondent would submit that though the earlier writ petition in W.P(MD)No.10301 of 2018 was filed challenging the order of the first respondent dated 16.03.2018 on the ground that the said order was passed in violation of principles of natural justice, in view of the interim order granted by this Court on 28.04.2018, yet another order was passed by the first respondent on 17.07.2020 and therefore, this Court may grant liberty to the first respondent to initiate fresh proceedings as against petitioner with regard to his emoluments.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

9. Admittedly, the petitioner entered into service in the year 1983 and retired from service in the year 2018. Earlier, pensionary benefits of the petitioner was calculated by taking into account the last pay drawn of the petitioner as Rs.82,400/-. However, vide the impugned order of the first respondent, dated 16.03.2018, the same was reduced to Rs.76800/-.



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

Hence, challenging the same, the petitioner has filed W.P(MD)No.10301 of 2018. Subsequently, in view of the interim order granted by this Court, a fresh order was passed on 17.07.2020. Subsequently, emoluments were disbursed to the petitioner except DCRG and encashment of leave benefits.

10. In view of the same, the prayer made in the earlier writ petition in W.P(MD)No.10301 of 2018, has become infructuous and hence, no adjudication is necessary in this writ petition. Accordingly, W.P(MD)No.10301 of 2018, is closed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

11. In respect of the prayer made in W.P(MD)No.14010 of 2020, since the entire emoluments were disbursed to the petitioner in pursuant to the order of the first respondent dated 17.07.2020 except DCRG and encashment of leave salary, this Court directs the first respondent to issue a fresh show-cause notice to conduct an enquiry and thereafter, pass appropriate orders to settle the admissible amount to the petitioner



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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towards DCRG and encashment of leave salary. Such exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

12. With the above direction, W.P(MD)No.14010 of 2020, is disposed of. No Costs.

31.01.2023

PM

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

To:

- 1.The Accountant General,
(Accounts & Entitlement),
No.361, Anna Salai, Chennai – 18.
- 2.The Director of Elementary Education,
DPI Campus, College Road, Chennai – 600 006.
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10/12



W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

M.DHANDAPANI, J.

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W.P.(MD)Nos.10301 of 2018 and 14010 of 2020

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