



WMP(MD) No.17448 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Twenty Ninth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice BATTU DEVANAND

WMP(MD) No.17448 of 2023

IN

WP(MD) No.18308 of 2016

WMP(MD).17448/2023:

THE SECRETARY TO GOVERNMENT
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT,
CHENNAI -600 009.

... PETITIONER/1st RESPONDENT

Vs

1 V.SHANMUGASAMY

... 1st RESPONDENT/PETITIONER

2 THE ACCOUNTANT GENERAL
261, ANNA SALAI,
CHENNAI - 600018.

... 2nd RESPONDENT/2nd RESPONDENT

Writ Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant leave to the petitioners to file counter affidavit in the writ petition in WP (MD) No.18308 of 2016.

WP(MD).18308/2016:

V.SHANMUGASAMY

... PETITIONER

Vs



WMP(MD) No.17448 of 2023

1 THE SECRETARY TO GOVERNMENT
SCHOOL EDUCATION DEPARTMENT,
SECRETARIAT, CHENNAI -600 009.

2 THE ACCOUNTANT GENERAL
261, ANNA SALAI, CHENNAI - 600018.

... RESPONDENTS

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records passed by the first respondent herein in Letter No. 28589/Na.Va2(1)/2014-1 dated 08.06.2015 and the consequential letter No. 23726/Tho.Ka.2(2)/2015-2 dated 25.05.2016 and quash the same and consequently direct the first respondent herein to allow the pensionary benefits to the petitioner herein.

ORDER : This Writ Miscellaneous Petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.V.NIRMAL KUMAR, Government Advocate for the petitioner in WMP(MD).17448/2023 & for the 1st Respondent in WP(MD).18308/2016, the court made the following order:-

This petition is filed seeking to grant leave to the petitioners herein to file counter affidavit in the main Writ petition.

2. Heard and perused the averments made in the accompanying affidavit.

3. It is an admitted fact that in the Writ Petition filed in the year 2016, the petitioners, who are the respondents in the Writ Petition, did not choose to file counter affidavit till now. In the affidavit filed along with this petition, the reason stated for non-filing of the counter affidavit is “neither the copy of the affidavit of the petitioner in the main Writ Petition nor any representation of the petitioner in the main Writ Petition regarding the filing of the above Writ Petition were received by the office of the first respondent”.



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4. It is very strange and surprising to this Court to see such type of averments in the affidavit filed by the first respondent who is responsible for filing of the counter within the time stipulated in the Writ rules.

5. Admittedly, on 26.09.2016, Mrs.Bharathi, learned Government Advocate took notice for the first respondent. Mr.Gunasekaran, learned counsel took notice for the second respondent.The case is posted for four weeks for filing counter.

6.In spite of specific direction from the court to file counter within four weeks, after taking notice on 26.09.2016, the counter is not filed till date.

7. The reasons stated in the affidavit also are not acceptable to this Court. However, considering the fact that counter affidavit is very much essential, this Court intends to consider the request of the petitioner on certain conditions.

8. Accordingly, this petition is allowed on condition of payment of Rs.15,000/- (Rupees fifteen thousand only) towards cost to the petitioner by the next date of hearing.

9. Post on 05.09.2023.

sd/-
29/08/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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CHENNAI -600 009.

2 THE ACCOUNTANT GENERAL
261, ANNA SALAI,
CHENNAI - 600018.

ORDER IN
WMP(MD) No.17448 of 2023 IN
WP(MD) No.18308 of 2016
Date :29/08/2023

SA/JGB/SAR. /01.09.2023/4P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.