



W.P.(MD)No.11728 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.11728 of 2016

and

W.M.P(MD)Nos.3158, 9004 & 9005 of 2016

Thirumaran

... Petitioner

Vs.

1. The Government of Tamil Nadu, represented
its Chief Secretary to Government,
Secretariat,
Chennai – 600 009.
2. The Director of Treasuries & Accounts,
485, Annasalai,
Nanthanam,
Chennai – 600 002.
3. The Joint Director of Treasuries and Accounts,
Tirunelveli.
4. The District Treasury Officer,
Virudhunagar District,
Virudhunagar – 626 002.



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5. The Joint Director of Pension,
D.M.S.Building,
Chennai – 600 006.
6. The Joint Director of Collegiate Education,
Madurai.
7. Virudhunagar Hindu Nadars
Senthilkumara Nadar College (Autonomous),
Virudhunagar – 626 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the impugned order in Na.Ka.No.16091/2015/Q1, dated 20.01.2016 in pursuance of G.O.Ms.No.106 Higher Education (H1) Department, dated 14.05.2015 and quash the same and direct the 4th respondent not to recover of any pension amount from the petitioner.

For Petitioner : M/s.G.Dhanalakshmi
For R-1 to R-6 : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the recovery order, dated 20.01.2016 with the consequential relief to direct the respondents not to recover the amount from the petitioner's pension.



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2. The petitioner was serving in the respondents Aided Private College and was serving as Tamil Professor for a period from 18.01.1979 to 03.11.1982. After serving 33 years of service on attaining superannuation on 01.12.1982 the petitioner retired from service. The petitioner was receiving monthly pension based on the scale of pay of Rs.700-1600. As per G.O.Ms.No. 200 of 1999 the pension was revised with effect from 01.04.1999 and revision was given to scale of pay Rs.37,400-67,000+ Rs.9,000 AGP, with effect from 01.01.2007. The contention of the petitioner is that the respondents had proposed to revise the pensionary benefits based on the G.O.Ms.No.106 Higher Education Department dated 14.05.2015, which is erroneous and illegal. Moreover, the respondents have not issued any notice and the reasons stated out in the impugned order is illegal, therefore, alleging violation of principles of natural justice the present writ petition is filed.

3. The contention of the respondents is that the G.O.Ms.No.106 Higher Education (H1) Department dated 14.05.2015 has granted benefits to persons who had retired from service prior to 1986 as professor and completed total service of 19 years, the employee pay was stepped up to 50% and the family



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pension 30% with effect from 01.04.2015. The stepping up is applicable to the pensioners whose pay band is Rs.1200-50-1300-60-1900. The petitioner had retired from on 01.12.1982, but his last drawn salary was Rs. 700-40-1100-50-1300. The petitioner was not in the pay band of Rs. 1200-50-1300-60-1900, but he was in the pay band of Rs.700-40-1100-50-1300, the stepping was wrongly fixed in the pay band of Rs.1200-50-1300-60-1900 by the private college. During the annual inspection it was found that the petitioner revision was wrongly fixed and disbursed. Therefore, the respondents claimed that the impugned revision order is in accordance with law and the recovery is made after issuing the Show Cause notice to the petitioner. There is no illegality and therefore, prayed to dismiss the writ petition.

4. Heard Mr.G.Dhanalakshmi, learned counsel appearing for the petitioner and Mr.R.Sureshkumar, learned Additional Government Pleader appearing for R-1 to R-6. Perused the material documents available on record.

5. It is an admitted fact that the petitioner had retired from service on 01.12.1982 in the pay band of Rs.700-40-1100-50-1300 and not in the pay band



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of Rs.1200-50-1300-60-1900. The government has changed the method to calculate the scale of pay while issuing G.O.Ms.No.234 dated 01.06.2009. While fixing the revision under G.O.Ms.No.235 dated 01.06.2009, the 6th respondent private college has wrongly fixed under the fitment table of Rs. 37400-67000+AGP9000. While refixing under G.O.Ms.No.106, it was found the petitioner is not entitled to the concession since there is wrong fitment under G.O.Ms.No.235.

6. The respondents have contended that the 6th respondent is a private Aided institution wrongly sent the proposal and has over drawn the amount. Such contention cannot be entertained and the respondents ought to have scrutinized the proposal submitted by the private college.

7. As far as eligibility of fixation is concerned the petitioner is not entitled to. Thereafter, the respondents are directed to refix the correct scale of pay and consequently refix the correct pension.



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8. As far as the recovery is concerned it is seen that the petitioner had received excess amount of Rs.17,22,410/-. It is the mistake of the private college as well as the official respondents. Moreover, the petitioner is also aware of the wrong fixation and the petitioner is duty bound to bring it to the knowledge of the authorities when the wrong pay band was taken into account for fixing the revision of pension. Therefore, in the interest of justice the respondents shall recover 50% of the amount from the petitioner and the balance 50% shall be waived. The respondents have already recovered three installments from the petitioner. The balance amount in the aforesaid 50% shall be recovered from the petitioner.

9. With these observations and directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

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W.P.(MD)No.11728 of 2016
[1/2]**

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