



W.P.(MD).No.17384 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17384 of 2016

M.PL.Chinniah

... Petitioner

Vs.

1.The Secretary,
Higher Education Department,
St.George Fort,
Chennai.

2.The Director,
Collegiate Education,
9th Floor, EVK Sampath Maaligai,
College Road,
Chennai – 6.

3.The Regional Joint Director,
Collegiate Education,
Shenoy Nagar,
Madurai – 20.

4.The Principal,
V.S.SV.Government Arts College,
Poolankuruchi,
Sivagangai District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the fourth respondent dated 30.06.2016 in ந.க.எண்.196 / அ / 2014 and quash the same and directing the respondents herein to disburse the amounts to the petitioner on re-fixation to the tune of Rs.1,02,562/- with interest @ 9% per annum based on his representation dated 06.04.2016.

For Petitioner : Mr.R.Sundar Srinivasan

For Respondents : Mr.V.Omprakash,
Government Advocate.

For Assisting : Mr.P.Gunasekaran,
the Court Accountant General Standing Counsel.

ORDER

This Writ Petition is filed to quash the order dated 30.06.2016 with a consequential direction to disburse the amounts to the petitioner on re-fixation to the tune of Rs.1,02,562/- with interest @ 9% per annum based on the petitioner's representation dated 06.04.2016.



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The petitioner had served as Selection Grade Lecturer (Commerce) in Sree Sevugan Annamalai College, Devakkottai and retired from service on 31.08.2006. As per the order of the third respondent, the petitioner was reemployed in the fourth respondent College with effect from 01.08.2008. After reemployment, the petitioner has served in the fourth respondent College till 31.01.2009 on the basis of last drawn salary minus pension. At the time of retirement, after re-employment, as per G.O.Ms.No.274 Higher Education (G1) Department dated 04.07.2008, the petitioner was paid a sum of Rs.90,334/- for the duty period which is calculated on the basis of last drawn pay at the time of retirement less the pension that has been paid on the basis of pre-revised pay. However, the pay has been revised subsequently in the year 2009 with retrospective effect from 2006 and based on the revised pay, the outstanding amount has to be paid for the period of service on re-employment. When the petitioner contacted the second respondent, he was informed vide communication dated 08.03.2011 that clarification has been sought for from the Government and thereafter suitable orders would be passed. In spite of various representations, there was no response. In the meanwhile, the petitioner received communication letter dated 03.03.2014 with a clarification dated



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03.08.2011 has been issued to the second respondent by the Deputy Secretary to the Government. In spite of such clarification, no action was taken by the second respondent. The fourth respondent has furnished calculation details showing the amount due to be paid to the petitioner on the basis of re-fixation is to the tune of Rs.1,02,562/-. The said amount would be disbursed after allocation of funds. Thereafter also no steps have been taken for disbursement of the said amounts and the petitioner was driven from pillar to post in order to get the said amount. Finally, the petitioner submitted a representation dated 06.04.2016. Thereafter, the petitioner received a communication dated 30.06.2016. In the said communication, it was alleged that as if a sum of Rs. 9,880/- was paid to the petitioner in excess and the petitioner was called upon to pay the said amount by means of demand draft. Since the claim of the respondents is illegal, the petitioner is before this Court.

3. The respondents have filed a counter stating that the petitioner is entitled to Rs.1,02,562/-, based on the re-fixation, however, the same could not be disbursed because of non-allocation of funds. The Government has also stated that the said amount would be allocated as and when the financial status is better.



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4. Therefore, this Court is of the considered opinion that for the amount of Rs.1,02,562/-, (Rupees One Lakh Two Thousand Five Hundred and Sixty Two only) the petitioner is entitled to and the same may be disbursed. This Court is inclined to quash the impugned order. Hence, the impugned order is quashed.

5. As far as the excess payment of Rs.9,880/-, the contention of the petitioner is that his last drawn salary is Rs.18,720/-. However, the contention of the respondents is that the last drawn salary is Rs.18,300/-. In order to clarify the same, this Court on previous occasion specially asked the Standing Counsel for the Accountant General to assist the Court by taking instructions on this case. Pursuant to the same, the learned Counsel for the Accountant General submitted written communication dated 24.02.2023 and the same is extracted as such:



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கனம் வே. ஏதர்ஸி பி. எஸ். சி. அலுவலர்
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (ACCOUNTS & ENTITLEMENTS), TAMIL NADU
No. 1, Anna Salai, Pondicherry - 605 006
மதுரை கனம் வே. ஏதர்ஸி பி. எஸ். சி. அலுவலர்
பி. ஏ. சி. அலுவலர், மதுரை - 605 006



Pr. AG(A&E)/Legal Cell/WP(MD) 17384 /2016/22-23/

02/2023

To
Sri P. Gunasekaran,
Advocate,
3/386 Subhashini Nagar, Surveyor Colony,
K. Pudur,
Madurai - 625 037.

Sir,

Sub. WP(MD) 17384/2016 filed by Sri M. PL Chinniah before
the Madurai Bench of Madras High Court - clarification
- reg.

Ref. as per your telephonic request

With reference to your telephonic request regarding , WP(MD) 17384/2016 filed
by Sri M. PL Chinniah, (Retired S.G.Lecturer, PPO No- C 189509 ,DOR- 31.08.2008)
the Pension details are as follows,

Last Pay Drawn - Rs. 18720/- (12800-420-18330)

Revised Pension = Rs. 44100+ 9000(Grade Pay) = 53970/-

(as per G.O.350 dt. 09.09.2009) = 53970 / 2

= Rs. 26985 /- (from 01.09.2008 to 30.09.2017)

Revised Pension = 26985 X 2.57 = Rs. 69351/-

(as per G.O.145 dt. 06.07.2018)

= Rs. 69350/- (Level-13A, with effect from 1.10.2017....)



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(As per G.O 145 the revised pension amount Rs 59300/- is higher than 50% of the minimum of Level-13A Rs 131400/-, hence Pension of Rs 59300/- is admissible)
This is for your information

Yours Faithfully,

[Signature]
24/12/2023
Senior Accounts Officer (Legal Cell)



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6. The said communication states that the petitioner is entitled to the last drawn salary to the tune of Rs.18,720/-. Therefore, there is no excess payment to the petitioner. Hence, the amount to the tune of Rs.9,880/- cannot be recovered from the petitioner. Therefore, this Court passes the following directions:

- (i) The respondents are directed to pay Rs.1,02,562/- (Rupees One Lakh Two Thousand Five Hundred and Sixty Two only) to the petitioner.*
- (ii) The respondents are restrained from recovering Rs.9,880/- from the petitioner.*
- (iii) The said exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.*

7. With the above directions, this Writ Petition is allowed. There shall be no order as to costs.

29.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

Nsr

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