



W.P.(MD)No.18691 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18691 of 2018 and
W.M.P.(MD)No.16581 of 2018

S.David Thirumalairaj (Died)
Sarojini (Died)

1.Ramabai
2.Baskaran
3.Padma
4.Shanthirajam

... Petitioners

vs.

1.The Treasury Officer,
District Treasury,
Madurai.

2.The Assistant Treasury Officer,
Sub-Treasury,
Melur, Madurai District.

... Respondents

***(Petitioner substituted, vide Court order, dated 23.12.2021, in W.M.P.
(MD)No.6589 of 2019 in W.P.(MD)No.18691 of 2018)***

***(P1 to P4 substituted, vide Court order, dated 23.03.2023, in W.M.P.
(MD)No.5580 of 2023 in W.P.(MD)No.18691 of 2018)***



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent i.e. the Assistant Treasury Officer Sub-Treasury Melur, relating to the impugned letter No.nil, dated 05.01.2018 and to quash the same and consequential order in proceeding in Na.Ka.No.304/2017/A1, dated 11.06.2018, to quash the same and further, to direct the respondents to repay the amount already recovered from the petitioner in pursuance of impugned orders to the petitioner.

For Petitioners : Mr.A.Jayaramachandran
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed to quash the impugned order dated 05.01.2018 and the consequential letter dated 11.06.2018 and consequently direct the respondents to repay the amount already recovered.



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2.The deceased petitioner S.David Thirumalairaj was serving as Secondary Grade Teacher in the Government School and was retired on 31.05.1992, after 25 years of service. He submitted a representation to fix his salary by granting Selection Grade in the Primary School Headmaster post. The representation was acted upon and the pensionary benefits was revised. The contention of the deceased petitioner S.David Thirumalairaj is that he is entitled to the same and hence, the respondents have revised the pensionary benefits. However, the respondents refuted by saying that the deceased petitioner himself has submitted a representation for revising the pay scale and the deceased petitioner has mislead the respondents and therefore, the amount was paid. The said contention of the respondents is not acceptable. Even if the deceased petitioner has submitted a representation, the respondents ought to have taken all the factors into consideration. Especially, the respondents ought to have taken the fact whether the deceased petitioner is entitled to or not. Therefore, the respondents have absolutely acted negligently in



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fixing and revising the pay scale. The deceased petitioner S.David Thirumalairaj was 84 years of age at the time of filing this writ petition and he died on 19.03.2019.

3. When the writ petition was pending, the petitioner's wife also died. Now the legal heirs are the three daughters and one son of the deceased petitioner. The legal heirs have come up with a substitution petition and the same was allowed by this Court, vide order, dated 23.03.2023.

4. This Court is of the considered opinion that the deceased petitioner is not entitled to claim Selection Grade pay in Primary School Headmaster post. The entitlement of the deceased petitioner is rejected. Therefore, the respondents ought to refix the pensionary benefits. Since the S.David Thirumalairaj has died and his wife also died, pension and



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family pension ought to be stopped and hence the question of refixation would not arise. As far as the recovery is concerned, pending writ petition, the respondents have recovered some amount. The recovered amount need not be paid to the deceased petitioner. As far as the balance amount that is recoverable, the respondents need not recover the same.

5. With the above said observation, the writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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

23.03.2023
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To

- 1.The Treasury Officer,
District Treasury,
Madurai.
- 2.The Assistant Treasury Officer,
Sub-Treasury,
Melur, Madurai District.



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S.SRIMATHY, J

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