



W.P.(MD).No.5730 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5730 of 2016

and

W.M.P.(MD).Nos.5156, 5157 and 7844 of 2016

I.Karupiah

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its,
Secretary to Government,
Finance (Pension) Department,
Fort St.George,
Secretariat,
Chennai – 9.
- 2.The Principal Accountant General of Tamil Nadu,
361, Anna Salai,
Theynapet,
Chennai – 18.
- 3.The Director of School Education,
DPI Campus,
College Road, Nungambakkam,
Chennai – 34.
- 4.The Chief Educational Officer,
Virudhunagar, Virudhunagar District.
- 5.The District Educational Officer,
Srivilliputhur, Virudhunagar District.



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6. The Assistant Treasury Officer,
Sub Treasury,
Srivilliputhur,
Virudhunagar District.

... Respondents

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 entire records relating to the impugned letter issued by the 6th respondent in Na.Ka.1605-2015-A1 dated 19.05.2015 and quash the same and consequently direct the respondents herein to continue to pay the monthly pension of Rs.10,500/- as it was paid from 01.01.2011 onwards with future increased pension.

For Petitioner : Mr.S.Veeranasamy

For R-1, R-3
to R-6 : Mr.V.Omprakash,
Government Advocate.

For R-2 : Mr.P.Gunasekaran,
Accountant General Standing Counsel.

ORDER

This Writ Petition is filed to quash the order dated 19.05.2015 and consequently direct the respondents herein to continue to pay the monthly pension of Rs.10,500/- as it was paid from 01.01.2011 onwards with future increased pension.



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WEB COP 2. The petitioner was originally appointed as a Craft Assistant on 05.12.1966 in the Education Department. Thereafter, he was holding various posts and attained superannuation and retired on 30.06.2000 and has rendered 33 years 6 months 26 days. Through PPO No.C107196/EDG dated 27.09.2000, the petitioner monthly pension was authorized to the tune of Rs. 3,850/- with effect from 01.07.2000, based on the last drawn salary of Rs.7,700/-. Thereafter, as per G.O.Ms.No.235 Finance (Pay Cell) Department dated 01.06.2009, para 2(vi) in respect of B.T. Assistant Selection Grade Pay Band fixed at Rs.15,600-39,100+5400 with effect from 01.01.2006 and the pension was fixed at Rs.10,500/- by giving monetary benefits from 01.01.2011. Further in G.O.No.23 Finance (Pension) Department dated 12.01.2011, the respondents issued orders giving monetary effect from 01.01.2011. Further under Letter No.51082/ Pay Cell/2010-1 dated 15.09.2010, the first respondent also issued orders for revision of scales of pay based on recommendation of the “One man commission – 2009” by enclosing Fitment Table – 15 by referring to the said G.O.Ms.No.234 Finance (Pay Cell) Department dated 01.06.2009, thereby, the petitioner's pay band was revised and he was fixed with revised pension of Rs.10500+Dearness allowance and Medical allowances with effect from 01.01.2011. While that being so, the sixth respondent vide letter dated 19.05.2015 revised the pension to the tune of Rs.8,701/- and was reduced from



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Rs.10,500/-. The excess payment of pension at Rs.1,68,916/- was sought to be recovered. The respondents further recovered Rs.10,000/- per month from June 2015 onwards for the past 9 months and so far a sum of Rs.90,000/- was recovered. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a counter stating that the petitioner is entitled to B.T.Assistant ordinary grade of 9300-34800 with Grade Pay of 4400. The Selection Grade Pay band was not notified in the Government Order. Without taking note of the same, the respondents have fixed the petitioner's pay band in Selection Grade Pay, thereby, paid excess amount to the petitioner to the tune of Rs.1,68,916/-. Subsequently, it was found that excess amount was paid. Therefore, through the impugned order, it was sought to be recovered. There is no illegality or infirmity. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.S.Veeranasamy, learned counsel for the petitioner and Mr.V.Omprakash, learned Government Advocate, appearing for the respondents 1, 3 to 6 and Mr.P.Gunasekaran, learned Accountant General Standing Counsel, appearing for the respondent no.2 and perused the records.



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5. It is seen from the records that the petitioner is 80 years old and receiving pension for the past 20 years. The petitioner's pay band ought to have been fixed in the ordinary scale rather than that the respondents have fixed in the Selection Grade Pay. Therefore, the wrong fixation was made when the 6th Pay Commission was introduced. When the 6th Pay Commission was introduced through G.O.Ms.No.234, there were several discrepancies while revising the pay scale as well as the revising the pension. Moreover, it has fixed pay for persons who have retired prior to 01.01.2006 and the persons who have retired after 01.01.2006. Therefore, there are several disputes, irregularities and discrepancies in the entire State. Several litigations were filed before this Court as well and the petitioner's case is one among such cases. It is an admitted fact that the petitioner is entitled to revised fixation only. Since the petitioner is 80 years old, this Court is of the considered opinion that the excess payment paid to the petitioner need not be recovered. However, the correct fixation shall be carried out by the respondents and after fixing the correct fixation, the said pension shall be continued to be paid. In the present case, already the respondents have recovered Rs.90,000/-from June 2015. The petitioner is also having some responsibility to bring it to the knowledge of the authorities if there is any wrong fixation. Since the amount has already been recovered, the same need not be paid to the petitioner. If it is ordered to be paid to the



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petitioner back, it will be an illegal amount in the hands of the petitioner.

Therefore, already recovered amount need not be paid to the petitioner and for the balance amount, the respondents are restrained from recovering. The respondents shall also fix the correct fixation.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.04.2023

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

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