



W.P.(MD)No.7525 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 7525 of 2016

and

W.M.P(MD)No. 6310 & 6311 of 2016

S. Narasimhan

... Petitioner

Vs.

1. The Director of Treasury And Pension

Director of Treasury and Accounts Department,
II Floor, Panagal Buildings, Jeenisi Road,
Sydapet, Chennai 600 015

2. The District Treasury Officer ,

Public Offices Buildings Premises,
Pudukkottai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus***, thereby call for the records of the 2nd Respondent in Na.Ka.No.12017/2015/E/dated Nil 01.2016 signed by the 2nd respondent on 12.01.2016 and quash the same as illegal and arbitrary and in consequences thereof directing the 2nd respondent to repay the sum of



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Rs.29,700/- (Rupees Twenty Nine Thousand seven Hundred only) already recovered from the petitioners pension amount at once.

For Petitioner : Mr. P. Ganapathi Subramanian

For Respondents : Mr. J. John Rajadurai,
Government Advocate

ORDER

This writ petition is filed challenging the impugned order, dated 12.01.2016 and consequently direct the 2nd respondent to repay the recovered amount. Through the impugned order the respondents intended to recover the excess amount to the tune of Rs.4,22,589/-.

2. Heard Mr. P. Ganapathi Subramanian, learned counsel appearing for the petitioner and Mr. J. John Rajadurai, learned Government Advocate, appearing for the respondents and perused the records.

3. The petitioner was serving in the Education Department from the year 1955 onwards and has attained superannuation and retired from service on



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31.12.1992. The claim of the petitioner is prior to 01.06.1988, there is no difference in salary between the Secondary Grade Teacher and Headmaster. Hence even juniors were appointed as Headmaster. However, in the V Pay Commission while fixing the scale of pay for selection grade and special grade Headmaster, there was discrepancy in the fixing the amount. Therefore, several litigations were filed before this Court and the issue went up to the Hon'ble Supreme Court. Subsequently, it was directed the teachers are entitled to the said payment. Hence, the respondents had fixed the scale of pay as well as refixed the pension as Rs.10,500/- and the petitioner was paid arrears as on 06.08.2012. The petitioner was also granted arrear amount of Rs.83,541/- on 06.08.2012 and Rs. 1,33,906/- on 13.12.2012. However, in the impugned order it is stated that while refixing, the petitioner's scale of pay was fixed incorrectly and excess payment of Rs.4,22,589/- was paid to the petitioner. Hence in the impugned order it is directed to recover a sum of Rs.9900/- for 42 installments and Rs.6789/- for 43rd installment.

4. The claim of the petitioner is that the petitioner has not misrepresented. Moreover, now the petitioner is aged about 88 years and he has



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received pension from 1992 onwards. Therefore, the respondents cannot recover any amount from the retired teacher, more over when the petitioner is more than 85 years old.

5. The respondents have filed counter stating that re-fixation was ordered through the impugned order and also directed to recover the said amount. The respondents have also stated that the Selection Grade Secondary Grade Assistant Teacher should have been paid pension of Rs.6800/-in the pay band Rs.9300-34800+GP 4300. But the respondents have fixed wrongly the pay band of Rs.15600-39100+GP 5400. Hence, there was over payment to the petitioner. Therefore, the impugned order sought to recover the amount from the petitioner.

6. After hearing rival submission, this Court has given its anxious consideration. It is submitted that the petitioner was 82 years at the time of filing the writ petition. When the writ petition was taken up for hearing it is also submitted that the petitioner died. Therefore, the impugned order of recovery is quashed. The respondents have already recovered a sum of Rs.40,500/- and the said amount need not be paid to the petitioner. However, the respondents shall



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refix the scale of pay as applicable to the petitioner's post. After refixing the same, the family pension shall be calculated and fixed. The deceased family is entitled to family pension based on the refixed scale of pay only.

7. With these directions, this writ petition is allowed in the above terms. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

01.03.2023

To

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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 7525 of 2016**

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