



W.P(MD)No.24483 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24483 of 2023

S.Ananthammal

... Petitioner

Vs.

1.The Personnel Assistant to the
District Collector,
Junior Assistant,
(Social Welfare and Nutrition Meal Programme),
District Collector Office,
Madurai-20.

2.The Commissioner,
Thirumangalam Panchayat Union Office,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation, dated 21.12.2022 and 10.02.2023 and release the General Provident Fund without any reduction as upheld by the Hon'ble Supreme Court in Civil Appeal No.7115 of 2010 - Thomas Daniel Vs. State of Kerala and Others, dated 02.05.2022.



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For Petitioner : M/s.M.Nila
For R-1 : Mr.G.Sivaraja
Government Advocate
For R-2 : Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

The present writ petition has been filed by a retired Noon Meal Organiser seeking a Mandamus directing the respondents to consider her representations, dated 21.12.2022 and 10.02.2023 and release the General Provident Fund without any reduction.

2. According to the learned Counsel appearing for the writ petitioner, she retired on 30.09.2020. At the time of her retirement, no disciplinary proceedings were pending and no audit objection was raised. However, when she insisted for payment of the GPF amount and other terminal benefits, an order came to be passed by the second respondent on 23.05.2023 to the effect that some excess payment under the head of increment has been erroneously paid to the writ petitioner from January 2016 to September 2020 which aggregates to a sum of Rs.54,356/-. Unless the said amount is deposited by the



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writ petitioner, the GPF amount cannot be released. In view of the above said information furnished by the second respondent, the present writ petition has been filed.

3. According to the learned Counsel appearing for the writ petitioner, the petitioner is a last grade servant and there was no mis-representation at any point of time in payment of increments to her in accordance with law. She had attained superannuation in September 2020 for the first time in the year 2023, such an information has been furnished to the writ petitioner. The learned Counsel appearing for the writ petitioner further relies upon the judgment of the Hon'ble Supreme Court reported in **2015 (4) SCC 334 [State of Punjab & Others vs. Rafiq Masih (White Washer)]** to impress upon the Court that being a last grade servant and the alleged excess payments have been made not by mis-representation on the part of the writ petitioner had due to some erroneous calculation on the part of the Department, the same cannot be recovered especially after retirement.

4. Per contra, the learned Government Advocate appearing for the respondents had contended that local fund had raised objection to the



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increments which have been paid in excess to the writ petitioner and only based upon the said audit objections, the second respondent is attempting to recover the said amount from the writ petitioner. Therefore, the writ petitioner cannot have any grievance over the recovery. After recovering the said amount of Rs.54,356/-, the balance amount would be paid to the writ petitioner as per terminal benefits.

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. It is not in dispute that the petitioner had retired from service as a Noon Meal Organiser on 30.09.2020. The second respondent has not disbursed the terminal benefits immediately after retirement. When the petitioner has made several representations for disbursement of the terminal benefits, the second respondent has sent a communication to the writ petitioner on 23.05.2023 to the effect that some excess payments have been made to her by way of increments during the period between January 2016 to September 2020 and unless the said amount is repaid to the Department, her terminal benefits would not be released.



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7. The petitioner is a last grade servant. It is not the case of the respondent authorities that the petitioner had mis-represented and had obtained excess amount as increment. Admittedly, the petitioner had retired from service on 30.09.2020. Therefore, the issue in the case is squarely covered by the judgment of the Hon'ble Supreme Court reported in **2015 (4) SCC 334** and the respondents are not entitled to recover the amount from the writ petitioner.

8. In view of the above said deliberations, the respondents are directed to release the terminal benefits including the GPF without deducting any amount arising out of audit objections. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed, accordingly. There shall be no order as to costs.

31.10.2023

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



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R.VIJAYAKUMAR, J.

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