



WEB COPY



W.P.No.32287 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.32287 of 2014

R.Arivukkam

...Petitioner

Vs.

1. The Principal Accountant General,
The Office of the Principal Accountant General (A&E),
361, Anna Salai, Chennai - 11.
 2. The Branch Manager,
The Office of the Principal Accountant General (A&E),
361, Anna Salai, Chennai - 11.
 3. The Director,
Directorate of Primary School Education,
Chennai.
 4. The Assistant Elementary Educational Officer (AEE)), (Urban),
Salem - 636 001.
- ...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of mandamus, directing the respondents to pay the remaining pensionary benefits and arrears yet to be paid and the revised arrears as per the 5th pay commission and further directing the respondents to refund the amount of Rs.29,973/- deposited by the petitioner as insisted by the respondents.



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For petitioner	: Mr.U.Karunakaran
For R1 & R2	: Mr.T.Ravikumar
For R3 & R4	: Mr.Vadivelu Deenadayalan
	Additional Government Pleader

ORDER

This writ petition is filed seeking for a mandamus directing the respondents to pay the arrears of pension, revised arrears of the 5th pay commission to refund Rs.29,973/- deposited by the petitioner.

2. The petitioner was working as a B.T.Assistant in Pavadi Girls Higher Secondary School, Salem. He was posted as Head Master to the Middle School on 23.12.1998 and continued to work till her superannuation, on 31.12.2011. However, the petitioner's pay has not been revised to 9100-275-14050, her terminal benefits were not settled fully, and still an amount of 6 to 8 lakhs were pending to be settled. Further, arrears of Vth pay commission, Rs.4,39,570/- towards encashment of leave salary has not been paid and the same has to be paid with interest of 12% for the belated payment from 01.01.2012 till the date of payment. The petitioner has submitted several representations, however, there was no response, hence, this present writ petition.



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3. Counter affidavit has been filed by the first and second respondents. According to the respondents the petitioner was appointed as a B.T.Assistant on 18.07.1977 and was awarded selection grade and special grade on 05.06.1987 and 05.06.1997. Subsequently, she was promoted as Middle School Headmistress on 23.12.1998 and was awarded selection grade in Middle School as Headmistress on 05.06.2007. She retired on 31.12.2011 on attaining the age of superannuation.

4. According to the respondents, as per the revised pension proposals received from Additional Assistant Elementary Educational Officer, Urban, Salem, the pensionary benefits in respect of the petitioner was revised with pay last drawn Rs.33,230/-(Rs.26,630/- + Grade Pay Rs.6,600/-) in the pay band of Rs.15,600-39,100 + Grade Pay Rs.6,600/- which is the pay band of special grade Middle School Headmaster. Further, the petitioner was not entitled for grant of Rs.6,600/- as Grade Pay as the petitioner retired prior to completing another 10 years of service for awarding Special Grade in the post of Middle School Head Master. Therefore, the petitioner was entitled to the pay last drawn of Rs.32,190/- (pay Rs.26,490/ + Grade pay Rs.5,700/-) but she was granted benefits



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based of pay last drawn of Rs.33,230/-(Rs.26,130/- + Grade Pay of Rs.6,600/-).

5. Heard both sides and perused the materials available on record.

6. During the course of submission, when the matter was taken up for hearing on 01.02.2024 it was reported by the learned counsel for the petitioner that the respondents had paid all the arrears due to the petitioner and that the petitioner is only insisting for refund of Rs.29,973/-, which the petitioner has deposited in the Government.

7. The learned Additional Government Pleader has also submitted that all the arrears to be paid to the petitioner have already been paid however the respondents have never directed the petitioner to deposit Rs.29,973/- and that there is not record to that extent. The petitioner also failed to produce any record to show that a demand was made by the respondents to deposit Rs.29,973/-.Therefore, the relief sought for by the petitioner insofar as return of Rs.29,973/- by the respondent cannot be considered.



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8. The learned counsel for the petitioner has contended that Rs.4,39,530/- which should have been paid on the date of retirement on 31.08.2011 was paid only on 30.11.2020 and thereby submitted that the petitioner is entitled for interest from 31.08.2011 to 30.11.2020.

9. On the contrary learned counsel for first respondent has submitted that the pay of the petitioner was incorrectly fixed, thereby downstream reversion of pay of the petitioner is required to be made.

10. The contentions raised by the learned counsel for the petitioner in respect of interest for delayed payment and the submissions of the first and the second respondents that the petitioner's pay has to be downgraded are not the subject matter of this writ petition, thereby, they cannot be considered and answered.

11. Considering the above submissions made by both the sides and on perusal of the of records, since the relief sought for by this petitioner has already been fulfilled, the cause does not survive any more in this writ petition.



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vca

12. Accordingly, this writ petition stands dismissed. No costs.

05.03.2024

vca

Internet : Yes/No
Index : Yes/No
Citation : Yes/No

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