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W.P.No.1084 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.1084 of 2017

and

W.M.P.No.1054 of 2017

1. S.Govindarajulu
2. Ramathilagam
(Substituted as LR of the deceased sole petitioner
as per order dated 04.04.2024 in W.M.P.No.5684 of 2024
in W.P.No.1084 of 2017 by MSKJ) ... Petitioners

Vs.

The Sub Treasury Officer,
Sankagiri,
Salem District. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in Na.Ka.No.1474/2016/Aa dated 13.10.2016 and quash the same and direct the respondent to refund the amount already recovered from the petitioner with interest.

For Petitioners : Mr.P.Rajendran

For Respondent : Ms.E.Ranganayaki



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Additional Government Pleader

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ORDER

This Writ Petition has been filed seeking Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in Na.Ka.No.1474/2016/Aa dated 13.10.2016 and to quash the same and direct the respondent to refund the amount already recovered from the petitioner with interest.

2. The petitioner who was initially appointed on 04.08.1958 and was further promoted to the post of Middle School Headmaster on 02.10.1970 and his pay was also accordingly fixed. However, thereafter he was reverted to the post of Primary School Headmaster/Secondary Grade Teacher for want of vacancy, however provided with protection of his pay even though they were technically posted to a lower post on reversion. It is by virtue of the order of the Apex Court, the pay of the petitioner was protected and accordingly the petitioner was retired from service after attaining the age of superannuation on 31.05.1993 and accordingly his pension was also released. He has been drawing pension,



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while so, the respondent herein issued the impugned proceedings dated 13.10.2016 revising the pension of the petitioner on the ground that the said pension was fixed based upon the pay drawn by the petitioner instead of fixing the pension based upon the pay attached to the post in which the petitioner was working on his date of superannuation.

3. Aggrieved by the said proceedings, the petitioner approached this Court by filing the present writ petition.

4. When the matter is taken up for consideration, it is brought to the notice of this Court has already considered the identical issue in W.P.No.987 of 2017, by an order dated 13.07.2023, and the claim of the petitioner therein was allowed and also further submitted that the case of the petitioner is identical to the case of the petitioner in the said writ petition. This Court thoroughly gone through the said order passed by the learned single Judge of this Court dated 13.07.2023.

5. Learned Additional Government Pleader also having gone through the said order, dated 13.07.2023 and stated the above decision is



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squarely applicable to the facts of the case on hand.

6. In the light of the above, this Court has no hesitation to allow the writ petition, in terms of the above said decision passed by this Court. Accordingly, this writ petition is allowed and the impugned order dated 13.10.2006 is quashed. In case, if any amount is already recovered from the petitioner, pursuant to the impugned order such amount shall be returned to the petitioner and the petitioner shall be paid pension that was fixed originally on the date of his retirement. Accordingly, the respondent is directed to fix the family pension consequent upon the death of the petitioner No.1 and pay arrears if any, together with the amount already recovered. The aforesaid exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

7. This Writ Petition is accordingly allowed. The connected miscellaneous applications, if any, shall stand closed. No costs.

04.04.2024

Index : Yes/No
Speaking Order : Yes/No



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To:

The Sub Treasury Officer,
Sankagiri,
Salem District.



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MUMMINENI SUDHEER KUMAR,J.

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