



W.P.(MD)No.7943 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.7943 of 2024

and

W.M.P.(MD).No.7213 of 2024

I.Gnanasekaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.

2.The Director of School Education,
College Road, Chennai – 600 006.

3.The Chief Educational Officer,
Kokkirakulam, Tirunelveli,
Tirunelveli District – 627 009.

4.The District Educational Officer,
Tirunelveli,
Tirunelveli District – 627 009.

5.The Headmaster,
Government Higher Secondary School,
Thalapathisamuthiram,
Tirunelveli District – 627 101.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by fifth respondent Headmaster, Government Higher Secondary School, Thalapathisamuthiram in Na.Ka.No.155/2023 dated 09.10.2023 quash the same and further direct the fifth respondent herein to sanction and disburse forthwith the arrears towards the encashment of Earned Leave of 218 days and Leave on Private affairs of 90 days at the rate of revised Last Drawn Pay of Rs.90,000.

For Petitioner : Mr.K.Ragatheesh Kumar
For M/s.Isaac Chambers

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the order of the fifth respondent dated 09.10.2023 and further direct the fifth respondent herein to sanction and disburse forthwith the arrears towards the encashment of Earned Leave of 218 days and Leave on Private affairs of 90 days at the rate of revised Last Drawn Pay of Rs.90,000/-.



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2. Heard Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

3. The petitioner is aggrieved due to the impugned order dated 09.10.2023 which rejected the claim of the petitioner for granting his earned leave encashment and leave on private affairs on the basis of his last drawn pay.

4. Mr.K.Ragatheesh Kumar, learned counsel for the petitioner submitted that the petitioner was in service when the 5th Pay Commission recommendation was implemented and by giving effect to the pay revision, the petitioner's last drawn pay was revised from Rs.75,900/- to Rs.90,000/-. Subsequent to the petitioner's retirement, the petitioner's pensionary benefits and pension has been fixed by taking into account of his last drawn pay. However, the fifth respondent has rejected the same through impugned order dated 09.10.2023, by stating that the Government Order in G.O.(Ms).No.90 dated 09.05.21018 and specifically clause 10(i) of the above Government Order is applicable



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only in respect of the revision of pension and family pension and it is not applicable to earned leave and other leave benefits.

5. No doubt, the Government Order in G.O.(Ms).No.90 dated 09.05.2018 relates to the pensionary benefits. Whenever Pay Commission recommendations are accepted, the Government would issue separate orders in respect of the employees in service and for retired employees. So, the fifth respondent cannot expect anything to be stated other than revision of pension and family pension in G.O.(Ms).No. 90 dated 09.05.2018. As the petitioner was in service at the time when the pay revision was accepted, but he was retired before it was implemented, the benefit of the revision has to be extended to the petitioner's leave encashment, encashment of leave in his credit under the head of leave on private affairs at the time of his retirement. If the petitioner had chosen to apply for any surrender leave during his service, he would have been entitled to get the encashment benefit on the basis of the revised pay scale. So, the respondents cannot apply a different yardstick while sanctioning the leave encashment subsequent to his retirement.



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6. The fifth respondent has misconstrued the impact of the pay revision and especially the directions given by the Court earlier in *Rev.Appln.No.227 of 2015 dated 09.12.2016* in the case of *The Government of Tamil Nadu, rep. by the Secretary, School Education Department, Fort St.George, Chennai-600 009 Vs G.Eswara*. For the sake of clarity, the essential paragraphs of the said judgment is extracted hereunder:

“38. Today, when the matters are taken up for consideration, keeping in mind the financial strain that would fall on the State exchequer in the event of implementation of the G.O., and in order to give a quietus to the issue, we feel it appropriate to fix the date as 01.03.2017 from which date onwards, the Government shall calculate and revise the pension and family pension (without arrears) based on the revised scales of pay by implementing the G.O., for which, the learned Advocate General and the learned counsels appearing for the Teachers have fairly acceded to the same. Accordingly, we pass the following:

i) The Government is directed to implement the G.O.Ms.No.216, dated 22.3.1993 for the period between 1.6.1988 and 31.12.1995, on and from 1.3.2017 onwards in respect of all the Secondary Grade Teachers of High/Higher Secondary Schools



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including the Special Teachers who attained Selection grade/Special Grade during the above said period, on par with the pay scale of Primary School Headmasters;

ii) Consequently, the Government shall calculate and revise the pension of those who retired from service and revise the family pension in respect of those who expired, based on the revised scales of pay in terms of G.O.Ms.No.216, dated 22.3.1993 payable on and from 1.3.2017.”

7. The respondents ought to have invoked G.O.(Ms)No.216 dated 22.03.1993 with effect from 01.03.2017. So far as the fixation of the revised pension and the pensionary benefits, it is right for the fifth respondent to rely upon the G.O.(Ms).No.90 dated 09.05.2018. But for all other benefits like the leave encashment of earned leave and leave on private affairs, the fifth respondent ought to have relied on G.O.(Ms). No.216 dated 22.03.1993. The petitioner's retirement falls on 31.07.2021 which is subsequent to the crucial date 01.03.2017, so the petitioner is entitled to get the benefits as claimed by him.



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No costs. Consequently, connected miscellaneous petition is closed.

24.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Secretary,
The State of Tamil Nadu,
Department of School Education,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Chennai – 600 006.
- 3.The Chief Educational Officer,
Kokkirakulam, Tirunelveli,
Tirunelveli District – 627 009.
- 4.The District Educational Officer,
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R.N.MANJULA, J.

Nsr

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