



WP(MD)No.4930 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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I.Kalimuthu

... Petitioner

Vs

1.The Principal Accountant General (A&E),
Tamil Nadu, No.361, Annasalai,
Chennai – 18.

2.The Treasury Officer,
District Treasury,
Sivagangai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records in connection with the impugned order dated 04.03.2015 made in Se.Mu.Aa.Na.Ka.No.10445/2014/G1 issued by the 2nd respondent and quash the same and consequently direct the respondents to regulate the basic pension pay of the petitioner in accordance with GO.No.363 dated 23.08.2013 issued by Finance (PGC) Department.

For Petitioner : Mr.P.Vinoth

For Respondent : Mr.K.Balasubramani
No.1 Special Government Pleader
For Respondent : Mr.P.Gunasekaran
No.2



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ORDER

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The petitioner is a retired Tamil Pandit. The pay scale of this petitioner was revised based on the Pay Commission recommendations in the year 2006, after his retirement. While so, the pay scale has been fixed as Rs.9300 - 34800 + GP 4800. As per the 6th Pay Commission recommendation, his eligible grade pay is Rs.4800/-, the grade pay which is permissible for the higher post namely Headmaster of a High School. However the grade pay was wrongly fixed as Rs.5400/- while revising the scale of pay and the petitioner has been paid as per the revised scale of pay. This defect has been noticed by the respondents only in the year 2015. Therefore, the scale of pay of this petitioner was revised and by an order of recovery was passed by order dated 04.03.2015. Challenging the same this writ petition is filed.

2.The learned counsel for the petitioner submits that this petitioner is 89 years old. He retired from service in the year 1993. The petitioner served as a Tamil Pandit, was provided with a selection grade. After 15 years of revising the scale of pay, the order of recovery has been passed and therefore the impugned order is liable to be set aside on the ratio laid



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down by the Honourable Supreme Court in **State Of Punjab & Ors vs Rafiq Masih (White Washer)** reported in **AIR 2015 SC 696**.

3.The learned Counsel for the respondent No.2 by referring to the government letter issued as a clarification for revision of scale of pay as per the Pay Commission recommendations in Government letter No. 63305/Pay Cell/ 2010-1, dated 08.11.2010 submits that this petitioner is entitled for a grade pay, which is eligible for his higher post / Headmaster of a High School. The grade pay for a Headmaster of the High School is only Rs.4,800/-, whereas this petitioner's grade pay was wrongly fixed as Rs.5,400/-, which is more than the eligible grade pay for the higher post. This mistake was noticed belatedly and it has been rectified by the impugned order dated 04.03.2015 and the amount which has already been paid in excess from the year 2011 to 2015 was ordered to be recovered.

4.This Court considered the rival submissions made.



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5.As pointed out by the learned Counsel for the respondents clarification was issued by the government for fixing the grade pay for selection grade in government letter in No.63305/Pay Cell/ 2010-1, dated 08.11.2010. Therefore, the grade pay ought to have been fixed as Rs.4,800/-, which is the grade pay for the higher post / Headmaster of the High School. However, the petitioner's grade pay was wrongly fixed as Rs.5,400/-. Therefore the mistake was rectified by the impugned order, the pay was revised and order of recovery has been passed.

6.This Court is not approving the order of recovery, which has been issued to this petitioner nearly after 15 years of his retirement Therefore, the portion of the impugned order in respect of the recovery is set aside and the order of revision of scale of pay as per the aforesaid clarification letter is confirmed.

7.This writ petition is partly allowed as indicated above. No costs.

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DSK



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B.PUGALENDHI.J.,

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