BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.11437 of 2022
and
W.M.P(MD)No.8135 of 2022

L.Reeta Mary ... Petitioner

Vs.

1.The Accountant General of Tamil Nadu,
Office of the Accountant General,
361, Anna Salai, Teynampet,
Chennai-600 018.

2.The Chief Educational Officer,
Kanyakumari District.

3.The District Educational Officer,
Nagercoil, Kanyakumari District.

4.The Correspondent,
Ringletaube Higher Secondary School,
Mylaudy-629 403,
Kanyakumari District. ... 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 2 to 3 herein to disburse days Earned Leave Benefits, Unearned Leave Benefits and re-employment salary from 01.07.2019 to 31.05.2020 and appropriate interest for the delayed payment of Gratuity amount of Rs.18,23,880/- for the period from 19.12.2019 to 04.03.2021 and also appropriate interest for the delayed payment of arrears of monthly pension for the period from 01.07.2019 onwards to 20.06.2023 within a reasonable time as may be specified by this Court.

(Prayer amended vide Court order, dated 22.08.2024 in W.M.P(MD)No.17121 of 2024 in W.P(MD)No.11437 of 2022)

For Petitioner	:	Mr.E.V.N.Siva
For R-1	:	Mr.P.Gunasekaran
For R-2 & R-3	:	Mr.N.Ramesh Arumugam Government Advocate

ORDER

This writ petition has been filed seeking for a Mandamus to issue direction to the respondents 2 to 3 herein to disburse days Earned Leave Benefits, Unearned Leave Benefits and re-employment salary from 01.07.2019 to 31.05.2020 and appropriate interest for the delayed payment of Gratuity amount of Rs.18,23,880/- for the period from 19.12.2019 to 04.03.2021 and also appropriate interest for the delayed payment of arrears of monthly pension for the period from 01.07.2019 onwards to 20.06.2023.

2. The case of the petitioner is that the petitioner was a retired Headmistress from the fourth respondent's School. However, she was provided with re-employment from 01.07.2019 to 31.05.2020. The fourth respondent School is a private aided Minority School, established and administered by the CSI Diocese of Kanyakumari. While the petitioner was re-employed, the erstwhile Correspondent vide letter, dated 15.10.2019 submitted her pension proposal enclosing No due, No Charge Certificate and Certificate of relieving, dated 13.06.2019. The pension proposal was approved by respondents 2 and 3 and forwarded to the office of the first respondent for validation. The first respondent herein vide proceedings, dated 12.12.2019 sanctioned pension and other retirement benefits and vide proceedings, dated 19.12.2019 sanctioned a gratuity amount of Rs.18,23,880/-. Even after receipt of the above, retirement benefits were not disbursed to the petitioner by the respondents 2 and 3 in collusion with the erstwhile Correspondent, who was facing some misappropriation charges and continuously refused to co-operate with the administration. Hence, the Bishop's vide letter, dated 23.09.2020, directed the Correspondent to settle all the monetary benefits to the petitioner and also directed to refund a sum of Rs.58,000/- withdrawn from School. In view of the above, the Correspondent started to allege false and frivolous complaints against petitioner to the authorities.

3. Thereafter, the respondents 2 and 3 in collusion with the erstwhile Correspondent on one side stalled the disbursement of pension to the petitioner and on the other hand, the respondents 2 and 3 issued various proceedings, dated 01.10.2020, 21.11.2020, 05.12.2020, 10.12.2020, 20.01.2021 and 08.03.2020 directing the Correspondent to issue necessary proposals along with the relieving order to enable the Department to disburse the pension and other retirement benefits. Finally, the Correspondent issued the relieving order, dated 14.12.2020 stating that audit report has not been received as regards Rs.1,11,606/- and no due and no charges certificate will be issued only after receiving an audit report from the Department. In view of the non-compliance of the earlier directions issued by the Diocese and non-remittance of Rs.58,000/- to the School, the Diocese, terminated and relieved the erstwhile Correspondent and forfeited his membership vide letter, dated 05.02.2021. Challenging the said letter, the erstwhile Correspondent filed suit in O.S.No.74 of 2021 before the Principal Subordinate Court, Nagercoil seeking the declaration of the above letter as null and void and for mandatory injunction to recover a sum of Rs.1,11,606/- from the petitioner and for initiation of criminal action and for mandatory injunction seeking direction against the CEO and DEO to initiate action against the petitioner based on the report submitted by the DEO, dated 16.10.2020. The above suit was filed only on 01.03.2021, which has no nexus as regards the disbursement of petitioner's pension and other retirement benefits which are sanctioned by the first respondent vide proceedings, dated 12.12.2019 and 19.12.2019 itself. The gratuity amount of Rs.18,23,880/- was sanctioned on 19.12.2019 and disbursed to petitioner only on 04.03.2021.

4. As per Rule 70 of the Tamil Nadu Pension Rules, 1978 only in respect of ascertained dues, equivalent cash deposit may be taken before disbursing pension. In so far as unascertained dues are concerned, as per Rule 71 of the Tamil Nadu Pension Rules, the employee may be asked to furnish surety in Form 9 before disbursing pension. Therefore, the respondents 2 and 3 herein and the Correspondent are bound to issue the no due certificates in accordance with Rules 71 of the Tamil Nadu Pension Rules after receiving surety in Form 9. Even if any due is found later, the respondents 2 and 3 herein and the Correspondent can recover the same from petitioner's pension. Hence, the petitioner submitted various representations to the respondents herein seeking to disburse monthly pension and other retirement benefits and the same is not considered till date. Aggrieved by the same, the petitioner has come forward with the present writ petition.

5. The learned Counsel appearing for the petitioner submitted the petitioner retired on 30.06.2019 and her services were extended for the academic year which ended on 31.05.2020. The pension has been already sanctioned to the petitioner by way of interim order at the time of admission (i.e.,) on 13.06.2022 and this Court directed the respondents to pay the pension and gratuity and the same was paid to the petitioner. The learned Counsel appearing for the petitioner further submitted that the pension was sanctioned on 12.12.2019 and the gratuity amount on 19.12.2019 and the same was paid in view of the above interim order, dated 13.06.2022.

6. The learned Government Advocate appearing for the official respondents has submitted written instructions from the third respondent and vide ந.க.எண்.3197/அ1/2022, dated 01.10.2024 according to which a sum of Rs.21,82,455/- is due to be paid to the petitioner in regard to earned leave (EL) and un-earned leave (UEL) then a re-employment salary (July 2019 to May 2020) and the same is extracted hereunder and reads as follows:

அனுமதிக்கப்படாத பணபலன்கள் (தோராயமாக)

வ.எண்	அனுமதிக்கப்படாத பணபலன்கள் (தோராயமாக)	தொகை ரூ
01.	EL and UEL CLOSURE (105900+12708+3200)X11	1339888/-
02.	RE-EMPLOYMENT SALARY (JUL 2019 to MAY 2020)	842567/-
	TOTAL	**2182455/-**

7. The counter affidavit was filed by the third respondent on 12.08.2024. As per the counter affidavit filed by the third respondent, the relevant portion is reads as follows:

> *"3. It is submitted that the fourth respondent School is a private aided minority school, established and administered by the CSI Diocese of Kanyakumari. The petitioner was working as the Headmistress of the fourth respondent school. On attaining the age of superannuation, she retired as Headmistress on 30.06.2019 from the fourth respondent school. However, she was provided with re-employment from*

01.07.2019 to 31.05.2020. While she was re-employed, the erstwhile Correspondent vide letter, dated 15.10.2019 submitted her pension proposal enclosing No due, No Charge Certificate and Certificate of relieving, dated 13.06.2019. The Pension Proposal were forwarded to the office of the first respondent herein for admitting the pensionary benefits. The first respondent herein vide proceedings No.AG(A&E) PEN P25/12522026/18/R2522026, dated 12.12.2019 admitted the pension and other pensionary benefits in proceedings No.AG(A&E) PEN P25/18/12522026/GPO, dated 19.12.2019 sanctioned Gratuity amount of Rs.18,23,880/-.

8. It is submitted that the second respondent issued orders, dated 08.12.2022 vide Na.Ka.No.2746/A4/2020 approving the relief on the A.N of 31.05.2020 from services including the re employment period based on the undertaking by the Correspondent of the School that there is no audit objections is pending against the petitioner and if any audit object is pending the school will be held responsible for the same. As directed by this Hon'ble Court the pension has been paid to the petitioner and however, other terminal benefits are withheld.

9. It is submitted that the D.C.R.G was disbursed to the petitioner on 04.03.2021. Now the pension has been paid based on the directions of this Hon'ble Court. However the other pending benefits, Earn leave closure and Re employment *salary have been withheld and the same will be released on receipt of sufficient orders in the pending litigation."*

8. Heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the official respondents and perused the materials available on record.

9. In this case, though the petitioner retired on 31.05.2020, the earned leave and un-earned leave amount was not settled to the petitioner till date. According to the respondents, a sum of Rs.36,567/- is the disputed amount, for which, the petitioner is liable and the same has to be paid by him and because of this meagre amount of Rs.36,567/-, the amount of sum of Rs.21,82,455/- was withheld by the respondents without any valid or genuine reason.

10. In view of the above facts and circumstances of the case, the third respondent is directed to settle a sum of Rs.21,82,455/- along with 5% of interest per annum in regard to earned leave and un-earned leave and re-employment salary as stated *supra*, within a period of eight (8) weeks from the date of receipt of a copy of this order. In regard to the disputed / audit objection amount of a sum of Rs.36,567/-, the petitioner is directed to give a representation to the second respondent / Chief Educational Officer, who may consider the same on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

11. The writ petition stands disposed of with the above observations and directions. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

21.10.2024

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

To

1.The Accountant General of Tamil Nadu,
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361, Anna Salai, Teynampet,
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J.SATHYA NARAYANA PRASAD, J.

BTR

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