



W.P.(MD)No.15449 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15449 of 2024

N.Krishnaveni

... Petitioner

Vs.

- 1.The Joint Director of School Education (Higher Secondary),
College Road, Chennai - 6.
- 2.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
- 3.The District Educational Officer (Secondary),
Thoothukudi,
Thoothukudi District.
- 4.The Secretary,
Sri Ramakrishna Chidambareswar,
Higher Secondary School,
Chettiyapathu Village,
Udankudi,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents to disburse the terminal benefits and other monetary benefits including arrears of increment, pension arrears, commutation, leave salary, death cum retirement gratuity,



W.P.(MD)No.15449 of 2024

Provident Fund, Special Provident Fund and Family pension of petitioner's deceased husband, namely, I.Balakrishnan in accordance with the Government Order in G.O.(Ms).No.151, Personnel and Administrative Reforms Department, dated 31.10.2018 within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Raja Simman

For R-1 to R-3 : Mr.M.Siddharthan,
Additional Government Pleader

ORDER

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.T.Aswin Raja Simman, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for respondent Nos.1 to 3.

3. The petitioner's husband, who was working as a P.G. Assistant (Tamil) in the fourth respondent School, has reached the age of superannuation on 31.05.2019. However, the petitioner's husband was not permitted to retire. Earlier, at the conclusion of the disciplinary proceedings, the fourth respondent School proposed to dismiss the petitioner's husband from service and also



W.P.(MD)No.15449 of 2024

sought prior approval from the second respondent and the same was refused by the second respondent on 02.11.2020. Against which, the fourth respondent has filed an appeal before the first respondent and the first respondent has also dismissed the same on 12.07.2021. Aggrieved over the same, the Management has filed a Writ Petition before this Court in W.P.(MD).No.15341 of 2021 and an order has been passed on 08.07.2022 and remitted the matter back to the School for fresh consideration. Again, the Management has filed a Writ Appeal in W.A.(MD).No.1190 of 2022 before this Court challenging the said order of the learned Single Judge. In the meanwhile, the petitioner's husband passed away on 18.05.2024.

4. Mr.T.Aswin Raja Simman, learned counsel appearing for the petitioner submitted that by virtue of the Government Order in G.O.(MS).No.151 Personnel and Administrative Reforms Department, dated 31.10.2018, all disciplinary proceedings pending against the petitioner and the punishment proposal has become abated and hence, the terminal benefits of the deceased ought to have been paid to his legal heirs. As per the above said Government Order, certain modalities have been issued for issuing abatement orders when the delinquent dies before the conclusion of the disciplinary proceedings. In the said order, the following procedures have been prescribed:



W.P.(MD)No.15449 of 2024

“5. In the above circumstances, the Government, after detailed examination have decided to simplify the modalities in the issuance of abatement orders and thereby prescribe the following procedure:-

(I).In departmental disciplinary cases including simultaneous disciplinary proceedings or Tribunal for disciplinary proceedings cases:-

On receipt of death certificate, the disciplinary authority concerned shall take immediate action for issuing abatement order and for the settlement of terminal benefits to the legal heirs of the deceased. A copy of such order shall be communicated to the Government / Heads of Departments for taking necessary action towards closing the other pending disciplinary cases, if any, at their end.

(ii). In Criminal Cases:-

On receipt of death certificate, in addition to following the procedure laid down in para 3 above, the disciplinary authority shall take immediate action to settle the terminal benefits to the legal heirs of the deceased without waiting for the slip proceedings from the Court. The Slip proceedings whenever issued by the Court may be recorded.”

5. In the instant case, even though the disciplinary proceedings have ended, the respondent Nos.1 and 2 did not give approval for the punishment to be imposed on the petitioner's husband. Hence, the Management thought it fit to remove the petitioner's husband from service. In fact, the Writ Petition filed



W.P.(MD)No.15449 of 2024

in this regard by the Management also got remitted back to them and the Writ

Appeal filed by the Management challenging the same is also pending.

6. Mr.M.Siddharthan, learned Additional Government Pleader appearing for respondent Nos.1 to 3 would submit that the Writ Appellate Court has already granted an order of stay.

7. Even the interim stay would only mean that the earlier order passed by the Joint Director for refusing the petitioner from removal of service should be maintained. Whatever may be the case, neither the School Committee has reconsidered the issue as per the directions of this Court nor got the approval from the Department for imposing major punishment for removal of the petitioner from service.

8. Hence, in all fairness subsequent to the death of the petitioner, abatement orders ought to have been passed by following the procedures contemplated in the Government Order in G.O.(Ms).No.151, Personnel and Administrative Reforms (N) Department, dated 31.10.2018. Since the respondents have not complied with the above Government Order, the petitioner was compelled to file this Writ Petition.



W.P.(MD)No.15449 of 2024

9. In view of the same, the Writ Petition is **disposed of** with a direction to the respondent Nos.1 to 3 to take a call to the fourth respondent to submit a proposal for passing abatement orders upon the husband of the petitioner and after receiving the proposal, the respondent Nos.1 to 3 shall pass appropriate orders on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. In the event of not getting any proposal from the fourth respondent, it is for the respondent Nos.1 to 3 to take a call in accordance with the Rules. No costs. Consequently, the connected miscellaneous petition is closed.

11.07.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

1.The Joint Director of School Education (Higher Secondary),
College Road, Chennai - 6.

2.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

3.The District Educational Officer (Secondary),
Thoothukudi,
Thoothukudi District.



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W.P.(MD)No.15449 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.15449 of 2024

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