IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.23862 of 2018
and
WMP.Nos.27816 of 2018 & 1172 of 2019

B.Raju,
No.12/77, Mercy Cottage,
Near Municipal Office,
Ooty 643 001. ... Petitioner

/vs/

1. The Accountant General,
No.361, Anna Salai,
Chennai 600 018.

2.The Chief Educational Officer,
The Nilgrils,
Ooty.

3.The Head Master,
Government Higher Secondary School,
Thuneri, The Nilgirls. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of CERTIORARIFIED MANDAMUS to call for the records relating to the 2nd respondent under the proceedings in Na.Ka.No.6349/A2/2018 dated 20.07.2018, pending and quash the same and consequently direct the 1st respondent to accept the 2nd respondent proposal made in Letter No.6349/a3/2017 dated 27.11.2017 and duly refund the recovery made forthwith thereto and to continue to pay the pension as arrived and fixed therein without any reduction or deduction in the pension emoluments.

For Petitioners :Mrs.Jasmine Padma

For Respondents :Mr. P.Manorajan,
Standing Counsel for Accountant General for R1

:Mrs.P.Rajalakshmi, G.A. for R2

ORDER

The Writ Petition has been filed to call for the records relating to the order of the 2nd respondent dated 20.07.2018 vide his proceedings No. Na.Ka.No.6349/A2/2018 and quash the same and consequently direct the 1st respondent to accept the earlier proposal sent by the 2nd respondent in his letter dated 27.11.2017 in Letter No.6349/A3/2017 to refund the amount already recovered and to pay the pension on the basis of the proposal dated 27.11.2017 without any reduction or deduction.

2. Heard Mrs.Jasmine Padma, learned counsel for the petitioner and Mr.P.Manorajan, learned Standing Counsel for Accountant General the first respondent, Mrs. P.Rajalakshmi, learned Government Advocate for the third respondent and perused the materials available on record.

3. The petitioner has retired from service as on 30.06.2016 as Government Higher Secondary School Headmaster. He was originally appointed as Government Higher Secondary School Headmaster on 24.07.2006 and was eligible to get selection grade on 24.07.2006. The petitioner attained the age of superannuation on 30.06.2016. On the date of his retirement, his last pay drawn was Rs.44,630/- and his original pension was fixed at Rs.22,315/- from July 2016. As per the Pay Commission recommendations, for fixing the revised pay scales, as approved by the issuance of the Government Order in G.O.Ms.303, Finance (PC) Department, dated 11.10.2017, the petitioner's last pay drawn was fixed at Rs.1,17,000/- and accordingly his pension was also fixed at Rs.58,500/-.

4. In pursuant to the government order in G.O.Ms.No.234, Finance (PC) Department, dated 01.06.2009, the petitioner had given his option to refix his pay in the selection grade in Higher Secondary Headmaster post. The 1st respondent / Accountant General has ordered recovery of a sum of Rs.52,272/- by wrongly holding that G.O.Ms.237, Finance (PC) Department, dated 22.17.2013 is not applicable to him. As per the objection raised by the 1st respondent, the 2nd respondent has refixed the petitioner's last pay drawn as on 01.07.2006 at Rs.1,10,300/- instead of Rs.1,17,000/-. The petitioner was qualified to get his selection grade pay as on 19.08.2002, but the said selection grade was awarded to him only on 24.07.2006 when he was posted as Government Higher Secondary School Headmaster.

5. On perusal of the Government Order in G.O.Ms. 237, Finance (PC) Department, dated 22.07.2013, it is seen that the concessions were alone applicable to those employees who got their selection grade/ special grade between the period from 01.01.2006 to 31.05.2009. It appears that the petitioner has got his selection grade pay well ahead of the cut off period as shown in G.O.Ms.237,Finance (PC) Department, dated 22.07.2013. The petitioner still claims that G.O.Ms. 237,Finance (PC) Department, dated 22.07.2013 is applicable to him.

6. In the clarification letter issued by the Government it is clarified that selection grade and special grade pay as shown in the annexed letter is applicable to those employees who have been awarded with selection grade and special grade prior to 01.01.2006 and who have opted to come over the revised scale of pay between the period from 01.01.2006 to 31.05.2009 and the revision of selection grade and special grade of pay as shown in the annexure is not applicable to those employees who have moved on to selection grade from special grade post on or before 01.06.2009. It is reiterated that the petitioner has got his selection grade pay prior to 01.06.2006 and he has also exercised his option to come under the revised scale of pay between the period from 01.01.2006 to 31.05.2009.

7. G.O.Ms.237, Finance (PC) Department, dated 22.07.2013 also clarifies that the above benefit is available to the employees who reached selection grade and special grade between 01.06.2006 to 31.05.2009, and they will get the notional benefit from 01.01.2006 and the monetary benefit from 01.04.2013. Just because the 1st respondent has stated that the petitioner is not entitled to get the benefit under G.O.Ms. 237, Finance (PC) Department, dated 22.07.2013, the 2nd respondent has refixed the pay of the petitioner without giving any opportunity to the petitioner to make his objections.

8. In fact, a sum of Rs. 52,275/- has also been recovered from the petitioner and now further deduction in his last drawn pay has been fixed. Before effecting any cut in the last drawn pay of the petitioner, the 2nd respondent could have furnished audit objection if any in order to enable the petitioner to make his

Objection. Without resorting to the said course, the 2nd respondent, on his own, has refixed the petitioner's last drawn pay by reducing it to Rs.1,10,300/- which had the consequential impact on pensionable amount that would be payable to the petitioner.

9. As the petitioner has not been given any opportunity to make his submissions and recovery has been made even prior to that, I feel the impugned order itself can be considered as a notice to the petitioner and the petitioner shall take the liberty to make his representation and on receiving the same, the respondents shall pass orders afresh after considering the representation of the petitioner. As the principles of natural justice have been violated without giving any opportunity to the petitioner and the 2nd respondent has effected a pay reduction by re-fixing the pay without the knowledge of the petitioner, I feel the impugned order itself can be treated as a notice given to the petitioner inviting his objections. It would be appropriate if the 2nd respondent could furnish the audit objection if any made by the 1st respondent.

10. In the result, the writ petition is **partly allowed** by setting aside the impugned order passed by the 2nd respondent dated 20.07.2018 in proceedings

No. Na.Ka.No.6349/A2/2018 and treating that as a notice given to the petitioner in order to make his objections by considering the matter afresh in a comprehensive manner. The petitioner shall take the liberty to make his representation within a period of two weeks from the date of receipt of copy of this order and on receipt of the same, the 2nd respondent shall pass orders afresh within a period of four weeks, thereafter. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

03.04.2025

Index : Yes
Internet : Yes/No
Speaking : Non-Speaking order
Neutral: Yes/ No
jrs

To
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