



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2025

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THE HONOURABLE MS JUSTICE R.N.MANJULA

**WP No. 24745 of 2018
and W.M.P.No.28767 of 2018**

1. M.Sivapandian,
S/o.Manickam, Chinnasamuthiram
Village and Post, Thiruppathur Taluk,
Vellore District.

Petitioner(s)

Vs

1. The Chief Educational Officer,
Vellore-9.
- 2.The District Educational
Officer, Vellore-9.
- 3.The Assistant Treasury
Officer, Sub Treasury Office, Tirupattur.
- 4.The Head Master,
Government Higher Secondary school,
Vaduganthampatti, Tirupattur Taluk,
Vellore District.
- 5.Accountant General (A and E),
Mount Road, Chennai-18.

Respondent(s)



PRAYER: Writ petition is filed under Section 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus to call for the records pertaining to impugned letter No. Na.Ka.No.6120/A1/ 2016 dated 15.03.2018 issued by the 2nd respondent and quash the same and direct the respondents to disburse the all terminal benefits including pension, gratuity and CVP to the petitioner herein.

For Petitioner(s): M/s.G.rajan

For Respondent(s): Mrs.P.Rajarajeswari
Government Advocate
For R1 To R4.

ORDER

This writ petition has been filed to call for the records pertaining to impugned letter No. Na.Ka.No.6120/A1/ 2016 dated 15.03.2018 issued by the 2nd respondent and quash the same and direct the respondents to disburse the all terminal benefits including pension, gratuity and CVP to the petitioner herein

2. The petitioner was appointed to the post of Office Assistant under compassionate grounds in view of the death of his wife by name Nandini who was working as Teacher in the fourth respondent college. In fact the petitioner was also given with all death cum retiral benefits of his wife Nandini and he



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was also allowed to draw family pension. Subsequently, an order of recovery was issued on 24.11.2016 stating that the petitioner is not eligible to get the family pension as he has already entered into a second marriage and in his service records he has indicated one Thangamani as his wife. By finding fault with the petitioner that he suppressed the material fact and his ineligibility to receive family pension, the order of recovery has been passed on 24.11.2016. The petitioner filed a writ petition in W.P.No.44175/2016 challenging the order of recovery and in which the following orders have been passed on 02.01.2017:

“ .. 8. In the result the writ petition is partly allowed and the impugned order passed by the third respondent in Na.Ka.No.651/E/2016 dated 24.11.2016 is set aside the matter is once again remanded to the third respondent. The impugned order dated 24.11.2016 shall be construed to be a show cause notice and the petitioner is at liberty to submit his response within a period of two weeks from the date of receipt of a copy of this order and the third respondent, on receipt of the same, is directed to consider the said explanation / response submitted by the petitioner, on merits and in accordance with law and pass orders within a period of six weeks thereafter and communicate the decision taken, to the petitioner. Till such time, the third respondent shall continue to pay the family pension to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.”



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3. So far, the said order has not been complied by the third respondent in that writ petition. In the meanwhile, the petitioner got retired due to his attaining the age of superannuation on 31.08.2017. Now the second respondent has passed the impugned order stating that the order of the Court has not been complied by the third respondent so far and the petitioner is continued to be paid with the family pension in view of the death of his wife. As the matter relating to the eligibility of family pension has not yet been resolved, the second respondent has passed the order stating that no objection certificate should not be granted to the petitioner to get the terminal benefits like pension, gratuity and commuted value of the pension. Aggrieved over the same, the petitioner has filed this writ petition.

4. Mr.G.Rajan, the learned counsel for the petitioner, submitted that the petitioner is eligible to get his retiral benefits and his rights should not be curtailed.



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5. Despite the petitioner has obtained a direction in the year 2017 itself against the third respondent to conduct an enquiry and come out with the findings as to the eligibility to receive family pension, the petitioner did not chose to file any contempt petition for the non-compliance of the order. The petitioner found it convenient to get the family pension continuously by taking advantage of the observation made in the order of this Court dated 02.01.2017. Neither the third respondent has taken any initiative on his part to comply the order of the Court scrupulously by conducting a due enquiry about the marital status of the petitioner. Without resorting to any of that course both the petitioner and the third respondent have been keeping quiet and that prompted the second respondent to pass the impugned order to stop given No Objection Certificate until the third respondent finishes the enquiry in compliance of the earlier writ petition in W.P.No.44175 of 2016.

6. As the matter already in issue has not been settled, it is right for the second respondent to pass the impugned proceedings by stop issuing the No Objection Certificate until the enquiry by the third respondent is completed in



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view of the orders passed already. If No Objection Certificate is issued to the petitioner, he will be receiving all the terminal benefits including his pension

and in the event of enquiry reveals that the petitioner is entitled to get the family pension consequent to the death of wife, then it will not be possible for the Government to make any recovery from the petitioner. Further, the petitioner would get the advantage of his own wrongs and hence that cannot be permitted.

In view of the same I feel the third respondent should complete the enquiry as how he was directed in the earlier writ petition in W.P.No.44175/2016 dated 02.01.2017 and file a report to the second respondent. However, the petitioner's entitlement to get No Objection Certificate to receive all the terminal benefits depends upon the outcome of the third respondent's inquiry with regard to his status of marriage at the time when he was drawing the family pension of his deceased wife Nandini.

7. In view of the above observation, this Writ Petition is disposed and the third respondent is directed to complete the enquiry as directed in the order dated 02.01.2017 made in W.P.No.44175/2016 and file a report to the second



respondent in this regard, within a period of four weeks from the date of receipt

of a copy of this order. No costs. Connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.The Chief Educational Officer,
Vellore-9.

2.The District Educational
Officer, Vellore-9.

3.The Assistant Treasury
Officer, Sub Treasury Office, Tirupattur.

4.The Head Master,
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R.N.MANJULA J.

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