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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 08.08.2025

Pronounced On : 19.09.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.17624 of 2018
and
W.M.P.(MD)Nos.15504 & 15505 of 2018

P.Logamani
W/o.N.Anguchamy
No.48/64, VOC Nagar
Pattalamman Koil 1st Street
Chinnamanur 625 515
Theni District. ... Petitioner

Vs.

1.The Principal Secretary to Government
Finance (Pay Cell) Department
Government of Tamil Nadu
Fort St.George,
Chennai 600 009.

2. The Principal Accountant General
Accountant & Entitlement
No.361, Anna Salai
Chennai 600 018.

3.The District Elementary Educational Officer
Theni District.

4.Tmt.S.Sudha
Block Educational Officer
Cumbum - 625 516
Theni District.

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5.Tmt.S.Sudha
Assistant Elementary Educational Officer
Cumbum,
Theni District. ... Respondents

PRAYER in W.P.:

To issue a writ, order or direction or any other writ in the nature of a Writ of Certiorarified Mandamus calling for the records relating to the two impugned proceedings of the 4th respondent in Rc.No.58/Al/2013 of the same dated 04.06.2018 and the consequent impugned order of 4th respondent in Na.Ka No.58/A1/2013 dated 06.07.2018 quash the same and consequently direct the respondents herein to disburse the retirement benefits with 7.5% interest unlawfully withheld by the respondents in the guise of recovery of alleged excess and to further direct the respondents herein to pay suitable compensation for the mental agony, harassment and irreparable loss sustained by the petitioner as may be fixed by this Hon'ble within a reasoning time and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER in WMP(MD)No.15504 of 2018:

To stay the two impugned proceedings of the 4th respondent in Rc.No.58/Al/2013 of the same dated 04.06.2018 and the consequent impugned order of 4th respondent in Na.Ka No.58/A1/2013 dated 06.07.2018, pending disposal of the above writ petition and thus render justice.

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PRAYER in WMP(MD)No.15505 of 2018:

To direct the respondents herein to refund Rs.97,963/- towards the alleged excess pay and allowance and Rs.44,199/- towards excess commutation of pension recovered from the petitioner together with interest at 7.5% pending disposal of the above writ petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner : Mr.K.Appadurai, Advocate

For Respondents : Mr.T.Amjad Khan,
Government Advocate, for R1, R3 to R5

: Mr.P.Gunaseelan, Advocate for R2

<u>J U D G M E N T</u>

Heard.

2. At the time of filing the present writ petition, the Petitioner was already 64 years of age. This marks the second round of litigation. Previously, she had instituted W.P.(MD) No. 16587 of 2013, challenging the recovery of amounts from her terminal benefits. That writ petition was disposed of by order dated 28.02.2018, wherein, in paragraph 4, the Court directed as follows: —

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> "4. Accordingly, the order impugned passed by the first respondent in proceedings No.AG(A&E)/PEN P19/1/REV 21906198/GPO, dated 26.6.2013 is quashed in respect of recovery alone. The respondents are directed to issue show-cause notice to the Writ Petitioner in respect of reduction of scale of pay and on receipt of explanation, take a decision and fix the correct scale of pay as applicable to the Writ Petitioner. If any excess payment already paid is recovered, the same is directed to be reimbursed to the Writ Petitioner within a period of 12 weeks from the date of receipt of a copy of this order."

3. Pursuant to the aforesaid direction, the impugned order dated 06.07.2018 was passed by the 4th Respondent. In the said order, it was stated that the Petitioner's pay scale had been revised in accordance with the applicable rules, and therefore, the question of any reduction in pay did not arise. Aggrieved by the same, the present writ petition came to be filed. Upon notice from this Court, the 4th Respondent filed a counter affidavit dated 19.07.2021, and the 2nd Respondent filed a counter affidavit dated 07.12.2024. It is relevant to extract the following averments set out in paragraphs 6, 7, and 9 of the counter affidavit filed by the 4th Respondent, which read as follows:

> "6. It is submitted that the pay of the petitioner was revised as per rules and it was fixed at Rs.25460/-. The Accountant General in his reference P19/1/21906198/PPO dated 26-06-2013 has revised the pensionary benefits based

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on the revised pay. He has also instructed to recover the excess pay paid to the petitioner. Accordingly the then Assistant Elementary Educational Officer, Cumbum ordered recovery of pay and allowances and the excess pay leave salary benefits to the tune of Rs.97,963/- in an order dated 06-03-2013 made in Rc.No.58/A4/2013. However this Hon'ble Court has ordered in W.P.(MD) No. 16587 of 2013, filed by the petitioner that the W.P. was allowed and observing that no recoveries of the excess paid amount should be made however has opined that necessary show cause notice be given to the petitioner with regard to the reduction of pay and after getting his explanation, to take a decision and fix the correct scale of pay eligible to the petitioner.

7. It is submitted that a show cause notice was issued to the petitioner on 18-05-2018 in Na.Ka.No.56/A1/2013, by the Assistant Elementary Educational Officer, Cumbum. The petitioner has replied to the show cause notice on 12-06-2018. The petitioner has stated that no deviation of any ruled has been made in the fixation of pay in the selection grade Primary school Headmaster. He has completely misunderstood the entire rule. The Government has in their letter No.1983/CMPC/2013-1 dated 04-02-2013 specifically clarified that the Primary schools Headmasters are eligible for fixation of pay as per rule 4(1)(i) and (ii) of the Tamil Nadu Revised scale of pay rules 2009. In view of the above clarification the headmaster is eligible for fixation of pay as per the details in para 4 above. The explanation offered by the petitioner in response to the show cause notice issued by the assistant Elementary Educational officer was not accepted due to the above fact and an order was issued to him. In the final orders, made in Na.Ka.No.58/A1/2013 dated 06-07-2018 of the Block Educational Officer, Na.Ka.No. 58/A1/2013 dated 06-07-2018 of the Block Educational

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Officer, Cumbum, the references Govt Letter No. 18187/PC/2012-1 Finance Department dated 18-04-2012 and Govt Letter No. 1983/CMPC/2013-1 Finance (PC) department dated 04-02-2013 have been quoted and the pay has been revised according to the clarifications issued. As stated in para 5 above it has been specifically stated that in cases where fitment Tables are not provided for fixation of pay in the revised scales as that of Selection Grade primary School Headmasters, their pay in the revised scales of pay should be fixed only as per Rule 4(1)-(i) a & (ii) of Tamil Nadu Revised scale of pay Rules 2009. Hence the pay revision reducing the pay of the petitioner made by the Block Educational Officer Cumbum is correct and as per rules and therefore needs no further revision. The contention made in para 4 by the petitioner is wrong.

9. It is submitted that the petitioner has submitted a declaration to refund the pension or gratuity authorized by the Accountant General Chennai if afterwards found to be in excess of the amount to which he was entitled under the Rules. The Petitioner has also submitted a declaration to make good any loss caused to the Government by way of overdrawal of pay allowances leave salary and other admitted obvious dues as a result of negligence or fraud on his part in service in the apartment in a lump sum or in a suitable installments. Hence the prayer of the petitioner to drop the downward revision of pay is against rules and not sustainable in law. This Writ Petition is not maintainable and is liable to be dismissed."

4. The Principal Accountant General, arrayed as the 2nd Respondent herein, has also sought to justify the recovery in the counter

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affidavit dated 07.12.2024. In paragraphs 11 to 14 thereof, it has been stated as follows: —

"11. It is further submitted that by G.O.23 dated 12.01.2011, the pay scale of Primary School Headmasters was revised from Rs.9300-34800 + Grade Pay Rs.4300/- to Rs.9300-34800 + Grade Pay Rs.4500/-. Thus the Pay Band of the Primary School Headmasters was not revised and maintained at Rs.9300-34800 only, but the Grade Pay applicable to the post alone was revised.

12. It is respectfully submitted that as clarified by the Government through the letters dated 18.04.2012 and 04.07.2017, the Additional Fitment Table is applicable only in respect of those whose pay band was also revised, which is not the case of the petitioner.

13. It is submitted that the petitioner was drawing the pay of Rs.8550/- as on 31.12.2005 in the post of Selection Grade PSHM in the scale of pay of Rs.6500-200-10500. Accordingly, the revised pay of the petitioner as on 01.01.2006 as worked out in terms of Rule 4(1) of G.O.234 dated 01.06.2009 would arrive at Rs.21310/- (Rs.15910/- + GP Rs.5400/-) in the scale of pay of Rs.15600-39100. Proceeding therefrom, the PLD of the petitioner as on the date of retirement i.e., 31.05.2012, has been calculated at Rs. 25460/- and the pensionary benefits were authorized by this respondent on that basis.

Incidentally, Rs.15600-39100 + GP Rs.5400/- is the Pay Band of the Selection Grade post corresponding to the Pay Band of Rs.930-34800 + GP Rs.4500/- applicable to the Ordinary Grade post in terms of Government Letter No.63305 / Pay Cell/2010-1 dated 08.11.2010, referred to by the petitioner.

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> 14. It is submitted as against the contention in Para 4 of the affidavit that though the letter dated 18.04.2012 was addressed to an individual by way of reply under RTI Act, the said letter only reiterates the provisions of the Government letter dated 15.09.2010. Though the letter dated 18.04.2012 was issued with reference to the specific post of VAO, the Government have clarified the broad principle underlying the applicability or otherwise of the Additional Fitment Table, in general."

5. With respect to the issue of her pension being withheld, paragraph 15 of the counter affidavit states as follows: —

> "15.It is submitted as against the contention in Para 14 that the Commuted Value of Pension of Rs.470417/- was paid to the petitioner on 03.09.2012 as per Voucher No.150 relating to the Treasury Officer, Theni and the DCRG of Rs. 672144/- was paid on 05.08.2013 as per Voucher No.203."

6. Accordingly, the contentions advanced by the Petitioner to the contrary are neither valid nor sustainable. It is also observed that it was improper on the part of the Petitioner to implead the 4th and 5th Respondents in their personal capacity rather than by virtue of their official designation. No personal allegations have been attributed against those officers, and such a practice ought not to be encouraged.

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7. In view of the foregoing, the writ petition is held to be not maintainable and is accordingly dismissed. The connected WMPs are closed. However, there shall be no order as to costs.

19.09.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No

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Pre-delivery Judgment made in
W.P. (MD) No.17624 of 2018

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