



W.P.(MD)Nos.24106 of 2024 and 3128 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : **28.03.2025**

Pronounced on : **09.04.2025**

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)Nos.24106 of 2024 and 3128 of 2025
and WMP(MD)No.20387, 20390 and
20391 of 2024 and 2196 and 2197 of 2025

Maria Delsia Mathi

... Petitioner
in both writ petitions

Vs.

1.The Principal Accountant General (A & E) Tamilnadu,
No.361, Anna Salai,
Chennai – 600 018.

2.The District Treasury Officer,
District Treasury,
Tenkasi.

3.The Chief Educational Officer,
Tenkasi District, Tenkasi.

4.The Head Master,
S.R.M.Government Girls Higher Secondary School,
Shenkottai,
Tenkasi District.

... Respondents
..in both writ petitions

PRAYER in 24106 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the respondent No.3 in



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No.AG(A&E)/PEN P09/10929234/4/RO 929 234 dated 08.07.2024 and the consequential proceedings of the respondent No.4 in PO9/10929234/4/PPO NO. R0929234 dated 12.07.2024 and to quash the same and consequently direct the respondents herein to pay the retirement gratuity and other retirement monetary benefits due to the petitioner within the period that may be fixed by this Court.

PRAYER in 3128 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the respondent No.1 in P09/10929234/4/PPO No.R0929234/EDC dated 11.07.2024 and to quash the same and consequently direct the respondent No.1 herein to issue a fresh Pension Payment Order taking into account the last drawn pay of Rs.92,100/- and the next qualifying service of 33 years and 8 months of the petitioner and to pay the arrears of pensio and other monetary benefits to him within the period that may be fixed by this Court.

In both writ petitions:

For Petitioner : M/s.V.Kannan

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

COMMON ORDER

WP(MD)No.24106 of 2024 is filed to quash the proceedings of the respondent No.3 dated 08.07.2024 and the proceedings of the respondent No.4 dated 12.07.2024 and for consequential direction to the respondents herein to



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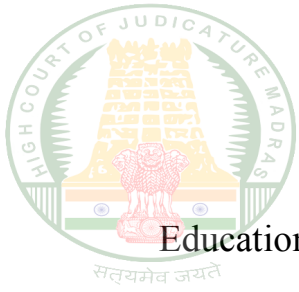
pay the retirement gratuity and other retirement monetary benefits due to the

petitioner within the period that may be fixed by this Court.

WP(MD)No.3128 of 2025 is filed to quash the proceedings of the respondent No.1 in P09/10929234/4/PPO No.RO929234/EDC dated 11.07.2024 and for consequential direction to the respondent No.1 herein to issue a fresh Pension Payment Order taking into account the last drawn pay of Rs.92,100/- and the net qualifying service of 33 years and 8 months of the petitioner and to pay the arrears of pension and other monetary benefits to him within the period that may be fixed by this Court.

2. The brief facts of the case are as follows:

(i) The petitioner was appointed as Physical Education Teacher on 01.09.1990 in a Government aided school namely, St.Joseph Girls Higher Secondary School, Sathankulam, Thoothukudi District. Since the petitioner worked in the said post without any promotion continuously for 30 years, one additional increment was granted with effect from 01.09.2020. She was awarded with selection grade and special grade in the said post with effect from 15.6.2000 and 1.9.2010 respectively. She was promoted and posted as Physical



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Education Director Grade-II on 24.2.2021 in R.N. Government Higher

Secondary School, Ayakaranpulam, Nagapattinam District. On 29.2.2024, she

was Promoted as Physical Education Director Grade-I and transferred to

S.R.M.Government Girls Higher Secondary School, Shenkottai, Tenkasi

District. Though the petitioner's date of superannuation was 30.4.2024, she was

allowed to serve till the end of the academic year at her request. She was

allowed to retire from service in the post of Physical Education Director Grade I

on 30.5.2024.

(ii) The first respondent herein issued the pension payment order, the authorization for pension and commuted value of pension vid his proceedings dated 11.7.2024 in Pension Payment Order (PPO) No. RO929234. The pensionary benefit was granted with reference to Tamilnadu Rules 1978/pension scheme to staff of Government pension Educational institution based on her net qualifying service of 33 years and 8 months and emolument last drawn Rs.89,400.

3. The grievance of the petitioner is that the first respondent has issued the said pension payment order granting monthly pension to the petitioner

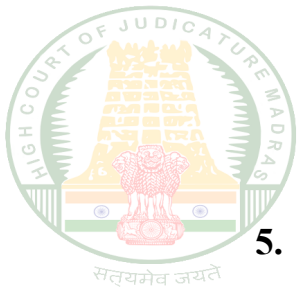


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taking into consideration the last drawn pay at Rs.89,400/- instead of

Rs.92,100/- mentioned in the pension proposal sent by the fourth respondent. In this regard, the petitioner has sent a representation to the first respondent on 01.11.2024 requesting to revise the retirement benefits and to pay the amount due to the petitioner at the earliest.

4. The learned counsel for the petitioner submits that the petitioner opted to come under Revised Scale of Pay Rules, 2009 with effect from 01.01.2006 as per G.O.(Ms.) No. 234, Finance (PC) Department, dated 01.06.2009 and her pay was rightly fixed in the revised scale of pay and after granting increment of Rs.150/-, the pay was refixed from Rs.6350/- to Rs.6500/- with effect from 01.04.2008 vide proceedings dated 21.04.2008. The first respondent ought not to have raised question in this regard after 16 years and passed the impugned order. The petitioner was drawing total monthly salary of Rs.1,41,650/- (Pay Rs. 92,100 + DA Rs.46,050+ HRA Rs.3200 + M.A Rs.300) till the date of her retirement. The fourth respondent has issued certificate to that effect and the petitioner is entitled to get the monthly pension of Rs.46,050/- considering the last drawn pay of Rs.92,100/- and the net qualifying service of 33 years and 8 months as stated in the pension proposal sent by the fourth respondent.



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5. The learned counsel contends that the impugned proceedings of the first respondent is illegal, arbitrary, high handed, whimsical and unfair and abuse of authority. The impugned order is also in violation of the principles of natural justice, since no prior notice was issued, calling for objections on the proposed recovery. The respondents herein cannot unilaterally resort to recover the alleged excess payment. The learned counsel submits that in the event of recovering the excess amount, the same would result in extreme hardship to the petitioner.

6. The learned Additional Government Pleader appearing for the respondents, relying on the counter affidavit, would submit that no correspondence or clarification regarding the discrepancy in the revision of pay as on 01.01.2006 has been received from the fourth respondent so far. He would further submit that bereft of any further communication justifying the pay fixation, the respondents could not revise the pensionary benefits as claimed by the petitioner. He would also submit that in compliance of the interim order dated 22.11.2024 passed in WP(MD)No.24106 of 2024, an amount of Rs. 16,75,225/- (Rs.20,00,000(-) Rs.3,24,745) has been credited to the bank account of the petitioner, as communicated by the Assistant Treasury Officer,



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Shencottai in his letter dated 14.02.2025.

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7. The learned counsel for the petitioner also endorsed the compliance of the interim order dated 22.11.2024.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader and perused the materials available on record.

9. The petitioner, who was appointed as the Physical Education Teacher on 01.09.1990 retired from service on 30.05.2024 in the post of Physical Education Director Grade-I Considering the net qualifying service of the petitioner as 33 years and 8 months and emoluments last drawn as Rs.89,400/-, the first respondent issued pension payment order and the petitioner is receiving the monthly pension accordingly. Thereafter basing on his admissibility report of entitlement of pensionary benefits of the petitioner, the 4th respondent issued impugned proceedings dated 08.07.2024 and the consequential proceedings dated 12.04.2024.

10. On careful perusal of the order impugned in this writ petitioner, it reveals that without providing any opportunity to the petitioner to put forth her

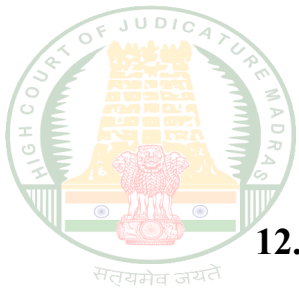


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version or without issuing any notice to enable the petitioner to submit her

WEB explanation, the impugned orders have been passed. It is the settled law that it shall be the duty of the concerned authorities to issue show cause notice to the petitioner to give explanation along with working sheet to calculate and find out the excess payment claiming to be made and after affording full opportunity of personal hearing, a reasoned order shall be passed on merits. But in the present case, no such opportunity is provided to the petitioner before issuing impugned orders and as such, it has to be declared as against the principles of natural justice.

11. Besides this, the appointment of the petitioner is recognized as per the the Tamil Nadu Revised Scales of Pay Rules, 2009 with effect from 01.01.2006 as per G.O.(Ms.)No.234, Finance (PC) Department, dated 01.06.2009. After 16 years, the respondents are raising objections with regard to the said re-fixation and contemplating for excess payment, which is not permissible as per the settled law. Admittedly, the petitioner is not at fault for any re-fixation of pay and the petitioner has no role on this aspect.



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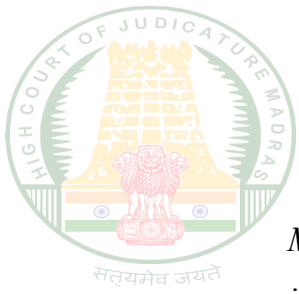
12. Considering all these aspects, in the considered opinions of this Court, the orders impugned in this writ petitions are to be declared as against the principles of natural justice and contrary to the settled preposition of law.

13. This Court, while dealing the similar issue in **W.P.No.16973 of 2017** in **G.N.Ramachandran (died) and two others Vs. The Accountant General (Principal) Accountant General Office Audit Section, Anna Salai, Teynampet, Chennai-600018 and 3 others**, passed an order. The relevant portions of the said order is extracted herein under:

“8. On perusal of the orders of this Court relied on by the learned counsel for the petitioner, it appears that in an identical circumstances, similar writ petitions are allowed on the ground of violation of principles of natural justice.

9. In an identical circumstances, this Court by an order dated 24.03.2022 in WP.No.1723 of 2017 held as extracted herein under :-

"5. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon-ble Supreme Court of India in State of Punjab -vs- Rafiq



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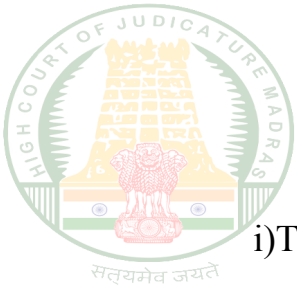


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Masih (Whitewasher) [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

6. There is nothing to show that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the concerned authorities shall appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioners along with working-sheet of the calculation for the excess payment claimed to have been made to the Petitioner and after affording full opportunity of personal hearing to them and considering each of the objections that may be raised by them, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioners under written acknowledgement."

14. Following the same and for the reasons stated above, the present writ petitions are allowed with following directions:



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i)The orders impugned in these writ petitions are hereby quashed.

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ii)The respondents are directed to settle all the retirement benefits due to the petitioner within the period of four weeks from the date of receipt of a copy of this order.

iii)The respondents are directed to release the amounts, if any, withheld by them or recovered from the petitioner on the ground of excess pay, to the petitioner within a period of four weeks.

15. It is made clear that the respondents are entitled to rectify the error in fixation of pension, but it can be undertaken only after issuing notice to the petitioner and after giving reasonable opportunity of hearing to the petitioner.

09.04.2025.

NCC : yes/no
Index : yes/no
Internet: yes/no
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To:

- 1.The Principal Accountant General (A & E) Tamilnadu,
No.361, Anna Salai,
Chennai – 600 018.
- 2.The District Treasury Officer,
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- 3.The Chief Educational Officer,
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Shenkottai,
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BATTU DEVANAND, J.

CM

**Pre-delivery order made in
W.P.(MD)Nos.24106 of 2024 and 3128 of 2025
and WMP(MD)No.20387,20390 and
20391 of 2024 and 2196 and 2197 of 2025**

09.04.2025