

(2007) 09 MAD CK 0055

In the Madras High Court

Case No : Writ Petition No. 5477 of 2005 and WPMP. No. 18808 of 2006

S.P. Ruban

APPELLANT

Vs

The Director of Elementary Education, The District
Elementary Education Officer, The Assistant Elementary
Educational Officer, Vallioor Range and Hindu Primary School

RESPONDENT

Date of Decision : 05-09-2007

Acts Referred:

Citation : (2007) 09 MAD CK 0055

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : S. Elamurugan, for the Appellant; Shanmugavalli Sekar, Government Advocate, for the Respondent

Judgement

M. Chockalingam, J.—Seeking to issue a writ of Mandamus for a direction to the first respondent to issue suitable orders directing the

respondents 2 and 3 to release the salary payable to the petitioner from May 2003 upto date and to continue to pay the same to the petitioner for

the post of Headmaster in the 4th respondent School.

2. The Court heard the learned Counsel on either side.

3. The affidavit filed in support of the petition is perused,.

4. Admittedly, the appointment of the petitioner as Headmaster in the fourth respondent School from 1.4.1998 was approved by the second

respondent, the competent authority by proceedings dated 21.4.1998 and the salary was also released by the second respondent for disbursement

and accordingly the same was disbursed till April, 2003. While so, based on G.O.155 dated 3.10.2002, the first respondent issued a general

circular dated 20.11.2002 to the subordinate education authorities including the

second respondent to the effect that the teachers who were with B.Ed qualification appointed against Secondary Grade Post and whose appointment were not approved and to whom the salary has been paid should be withheld for recovery. Following the same, the salary of the petitioner was withheld from May, 2003. Under such circumstances, the above writ petition has been filed.

5. Learned Counsel for the petitioner raised two contentions viz., G.O.Ms. No. 155 dated 3.10.2002 is not applicable to the petitioner herein,

since the appointment of the petitioner was approved by the second respondent on 21.4.1998 and hence the said G.O. could not be applied.

Secondly, in the instant case, the salary has been paid from the time onwards continuously, but it has been withheld from May, 2003. The validity

of the G.O. was upheld by the Division Bench of this Court dated 2.4.2004 and allowed to the limited extent of directing that no recovery be made

from person from whom grants have already been paid and salary released. Under such circumstances, the writ petition has got to be ordered.

6. Learned Counsel for the respondents would submit that the third respondent, Assistant Elementary Educational Officer, Vallioor Range has

made recommendation to the second respondent by communication dated 17.10.2005 for disbursement of the salary of the petitioner and now it is

in the hands of the second respondent and orders are awaiting.

7. After hearing the learned Counsel on either side, this Court is of the considered opinion that while there was a judgment of the Division Bench of

this Court declaring G.O.155 dated 3.10.2002 as valid, but at the same time there was a direction issued, no recovery should be made from the

salary already released or in respect of the persons from whom grants have already been paid and salary released. Under such circumstances,

there is no justification for the respondents in withholding the salary of the petitioner from May, 2003 till this day. Now it is brought to the notice of

this Court that the third respondent has made recommendation to the second respondent on 17.10.2005 and it is pending orders in the hands of

the second respondent. In the above situation and in appraisal of the facts and circumstances of the case, it would be suffice to issue a

direction to the second respondent to consider the representation of the third respondent within a period of four weeks from the date of receipt of

a copy of this order and pass suitable orders thereby releasing the salary of the petitioner, without any further delay, since the delay for the period of four years is noticed.

8. With the above observation, the writ petition is disposed of. No costs. Consequently, WP.MP. No. 18808 of 2006 is closed.