

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.30186 OF 2021

ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Services-III appearing for the respondents. With their consent, the Writ Petition is being disposed of, at the stage of admission.

2. The Writ Petition is filed *inter alia* seeking to declare the action of the respondents in recovering an amount of Rs.4,62,062/- from the petitioner as illegal, arbitrary, unjust and for a consequential direction to the respondents to refund the said amount.

3. Learned counsel for the petitioner submits that similar issues fell for consideration before a Full Bench of this Court in Writ Petition Nos.21457 and 23506 of 2004, Writ Petition Nos.1462, 8907 and 12917 of 2005, Writ Petition Nos.11688 and 22577 of 2006, wherein the Full Bench after considering the matter, issued a direction to the respondents not to recover any amount, which was already paid to Grade-II Pandits, who were given benefit of Scale of Pay of Grade-I. He further submits that in the case on hand, the 2nd respondent recovered the amount from the petitioner contrary to the orders in the above mentioned writ petitions¹. He also relies on the judgment of the Division Bench of this Court in Writ Petition No.15186 of 2021, dated 03.8.2021 and seeks similar relief. The submission

¹ 2010 (3) ALD 744 (FB)

with regard to the legal position made by learned counsel for the petitioner is not disputed by learned Assistant Government Pleader for Services–III.

4. Considered the submissions made and perused the earlier orders of this Court including the orders of a Division Bench in Writ Petition No.15186 of 2021, dated 03.8.2021. The Hon'ble Full Bench, after examining the provisions of Act 1 of 2005, *inter alia*, held as follows:

“(iii) The impugned Act is silent with regard to recovery of the amounts already paid to those Grade–II Pandits who availed the benefit under G.O.Ms.No.330, dated 10.8.1983 and hence the Government shall not recover any amount actually and already paid to any of the Language Pandits Grade – II who were given benefit of Scale of Pay of Grade–I.”

5. Accordingly, in the light of the orders passed in similar circumstances, this Writ Petition is allowed on the same lines. The respondents are directed to refund the amount of Rs.4,62,062/- recovered from the petitioner, under proper acknowledgement, within a period of two months from the date of receipt of a copy of this order. In the event, the amount is not refunded within the time stipulated, the petitioner would be entitled to interest on the said amount at 12% per annum. There shall be no order as to costs.

The miscellaneous applications, if any pending, shall stand closed.

NINALA JAYASURYA, J

Date: 21.12.2021

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