

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.8533 of 2017 and
W.M.P. Nos.9319 and 9320 of 2017

R.Teresa ... Petitioner

-vs-

1.Director of Elementary Education,
Chennai-6.

2.District Elementary Educational Officer,
Coimbatore, Coimbatore District.

3.Assistant Elementary Educational Officer,
Coimbatore Town, Coimbatore District.

4.The Correspondent,
Bishop Oubaharam Primary School,
Lawley Road, Coimbatore-641 002,
Coimbatore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the order passed by the third respondent in his Proceedings Mu.Mu.No.819/A/2016 dated 15.09.2016 and the order passed by the fourth respondent in their Proceedings No.Nil dated Nil and quash the same and direct the respondents to repay the amount already recovered to the petitioner pursuant to the impugned orders.

For Petitioner : Mr.P.Ganesan

For Respondents: Mr.P.Sanjay Gandhi
Additional Government Pleader
for R1 to R3

O R D E R

This writ petition has been filed by the petitioner challenging the order dated 15.09.2016 passed by the third respondent vide Proceedings Mu.Mu.No.819/A/2016 and the order passed by the fourth respondent and seeking a direction to the respondents to repay the amount already recovered from her.

2.The petitioner having passed S.S.L.C. in the year 1985 and +2 in the year 1987 and Diploma in Teacher Education in the year 1990, was appointed as Secondary Grade Teacher in the fourth respondent School on 05.09.1995. Her appointment was also approved by the Department. While so, she acquired B.A. (History) in the year 1997, M.A. (History) in the year 2008 and B.Ed. in the year 2011. However, she applied for incentive increment for obtaining higher qualifications and the respondents have also sanctioned the same for M.A. and B.Ed. from the last date of examination. This being the position, the third respondent by an order dated 15.09.2016 cancelled the incentive increment already sanctioned on the ground that the petitioner has acquired B.A. Degree from the Open University and directed the Management to calculate the amount received by her and remit the same in the Government account. Based on the order passed by the third respondent, the fourth respondent management passed order of recovery. The grievance of the petitioner is that before passing the impugned orders, the respondents have not given any notice calling for the petitioner to give explanation and therefore, the same are passed against the principles of natural justice.

3.Learned Additional Government Pleader appearing for the respondents requested this Court to direct the petitioner to treat the impugned proceedings as notice so that she can give an explanation within a specified time limit.

4.Considering the submission made by the learned Additional Government Pleader, this Court directs the petitioner to give explanation, by treating the impugned proceedings as notice calling for explanation, within a period of three weeks from the date of receipt of a copy of this order. After receipt of the explanation, the respondents are directed to pass appropriate orders, on merits and in accordance with law, within a period of eight weeks thereafter. Till then, the impugned orders shall be kept in abeyance.

5.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected W.M.Ps are closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.Director of Elementary Education,
Chennai-6.

2.District Elementary Educational Officer,
Coimbatore, Coimbatore District.

3.Assistant Elementary Educational Officer,
Coimbatore Town, Coimbatore District.

+1cc to M/s.C.S.Associates, SR.No.21625

+1cc to Government Pleader SR.No.217098

SDR 20.04.2017

W.P. No.8533 of 2017



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