

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3177/2017 & WMP.No.3115/2017

Tmt.C.Jayanthi

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Petitioner

Vs

- 1.The Director of Elementary Education,
College Road, Chennai-6.
- 2.The District Elementary Educational Officer
Thiruvarur.
- 3.The Assistant Elementary Educational Officer
Mannarkudi, Thiruvarur District.
- 4.The Headmaster
P.U.Middle School, Nemmeli,
Mannargudi Union
Thiruvarur District.

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Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka.No.1649/2017/A3 dated 18.01.2017 and quash the same and direct the 3rd respondent to refix/restore the scale of pay of the petitioner of Rs.18950/-.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal. Mr. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2 The petitioner who is a Diploma Holder in Teacher Education, was appointed as Secondary Grade Teacher on

13.05.2005 on a consolidated wage of Rs.3000/- per month and was posted at the Panchayat Union Middle School, South Nanalur and in pursuant to G.O.Ms.No.99, School Education Department, dated 27.06.2006, her services have been regularised in the scale of pay with effect from 01.06.2006. The petitioner would further aver that with the permission of the concerned authority, she has studied M.Com., and passed the same in the year 2010 and B.Ed., in the year 2013 and as per G.O.Ms.No.42, School Education Department, dated 10.01.1969, for acquiring higher qualifications, the teachers are entitled to incentive increments and in this regard, G.O.Ms.No.324, Education, Science and Technology [E2] Department dated 25.04.1995, certain guidelines have also been prescribed for granting incentive increments. The grievance now expressed by the petitioner is that though she has been paid the incentive increments from 20.05.2013, all of a sudden, without putting the petitioner on notice, the 3rd respondent has passed the impugned proceedings dated 18.01.2017, ordering refixation and recovery and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3 Mr.S.N.Ravichandran, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the order of refixation and recovery has been passed without putting the petitioner on notice and it warrants interference and prays for appropriate orders.

4 The Court heard the submissions of Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents.

5 A perusal of the impugned proceedings of the 3rd respondent dated 18.01.2017 would disclose that the petitioner was not at all put on notice before ordering refixation and recovery. It is a well settled position of law that an order of refixation and recovery visits the concerned employee with grave civil consequences and in all fairness, the 3rd respondent ought to have put the petitioner on notice before ordering refixation and recovery.

6 In the light of the above facts and circumstances, the impugned proceedings dated 18.01.2017 issued by the 3rd respondent shall be construed as a show cause notice, for which the petitioner is at liberty to submit her response/explanation to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 3rd respondent is directed to consider the said explanation / response on merits and in accordance with law without pre-determination of mind and pass orders within a further period of eight weeks thereafter and communicate the

decision taken, to the petitioner and till such time, the refixation and recovery proceedings shall be deferred.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected MP is closed.

sd/

Assistant Registrar(CS IV)

/true copy/

Sub Assistant Registrar

AP

To

- 1.The Director of Elementary Education,
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- 3.The Assistant Elementary Educational Officer
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- 4.The Headmaster
P.U.Middle School, Nemmeli,
Mannargudi Union
Thiruvarur District.

+1cc to Mr.S.N.Ravichandran, Advocate SR.No.8339

+1cc to the Government Pleader SR.No.8876

W.P.No.3177/2017

RJ(CO)
GN(22/02/2017)

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