

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2017

Coram

The Hon'ble Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.24020 of 2017

and

W.M.P.Nos.25331 & 25332 of 2017

D.Mallika

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary
Department of School Education
Secretariat
Fort St.George
Chennai - 600 009.
2. The Director of School Education
College Road
Nungambakkam
Chennai - 600 006.
3. The Regional Accounts Officer (Audit)
School Education Department
Coimbatore Region
Coimbatore.
4. The Chief Educational Officer
Coimbatore
Coimbatore District.
5. The Headmaster
Government Boys Higher Secondary School
Ondipudur
Coimbatore - 16.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent No.4 in O.Mu.No.1287/A5/2017 dated 12.05.2017 and in the impugned order passed by the 3rd respondent in Na.Ka.No.746/E3/2017 dated 16.06.2017 and consequential order of the 5th respondent in his impugned proceedings in Na.Ka.No.176/A1/2017 dated 23.06.2017 and quash the same as

illegal and consequently direct the respondents to sanction incentive increments for possessing M.Phil in Physical Education, to the petitioner in the light of the G.O.Ms.No.324, Education, Science and Technology Department dated 25.04.1995.

For Petitioner : Mr.Devaraj Mahesh

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The show cause notice issued to the writ petitioner in proceeding No. Na.Ka.No.176/A1/2017 dated 23.06.2017, internal communication in Na.Ka.No.746/E3/2017 dated 16.06.2017 between the Regional Accounts Officer and Headmaster are under challenge in this writ petition.

2. The writ petitioner is working as Physical Director in the Government Higher Secondary School, Kottur Malaiyandipattinam, Coimbatore District. He was sanctioned with the incentive increment for acquiring additional qualifications. The incentive increment granted to the writ petitioner was objected by the Audit Department in Proceeding dated 16.06.2017 and the Audit Officer issued instructions to the Headmaster to initiate action with regard to the erroneous fixation of pay to the writ petitioner. Pursuant to the communication, the Headmaster issued the impugned show cause notice in proceeding dated 23.06.2017 directing the writ petitioner to submit her explanation/objections with regard to the fixation of pay. The writ petitioner instead of submitting explanation, filed this writ petition challenging the very show cause notice.

3. No writ can be entertained against the show cause notice in a routine manner. Writ proceedings shall be entertained against the show cause notice only on exceptional circumstances, if the show cause notice was issued by an incompetent authority ought to have been no jurisdiction or allegations of malafide raised or if the show cause notice is in violation of the statutory rules. Even in raising of malafide, the authority against whom such an allegations, has to be impleaded as respondent in the writ proceedings in his personal capacity. In the absence of any one of the legal grounds no writ can be entertained against the show cause notice.

4. At the stage of show cause notice, this Court cannot adjudicate the matter on merits and it is for the writ petitioner to submit her explanation / objections before the competent authorities to redress the grievances and the

authorities have to consider the same and take final decision in this regard. It is left open to the writ petitioner to adjudicate the matter before the competent authorities by participating in the proceedings.

5. In this view of the matter, it is left open to the writ petitioner to submit her explanation / objections before the competent authorities responding to the show cause notice impugned in this writ petition dated 23.06.2017 and the respondents are at liberty to take a final decision in this regard with regard to fixation of pay to the writ petitioner. Hence, no further adjudication on merits and the grounds raised in this writ petition to be undertaken. Accordingly, writ petition stands dismissed. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jer
To

1. The State of Tamil Nadu
Rep. by its Secretary
Department of School Education
Secretariat
Fort St.George
Chennai - 600 009.
2. The Director of School Education
College Road
Nungambakkam
Chennai - 600 006.
3. The Regional Accounts Officer (Audit)
School Education Department
Coimbatore Region
Coimbatore.
4. The Chief Educational Officer
Coimbatore
Coimbatore District.

5. The Headmaster
Government Boys Higher Secondary School
Ondipudur, Coimbatore - 16.

+1 cc to Mr.Devaraj Advocate sr 64871
+1 cc to Govt Pleader sr 64963

Writ Petition No.24020 of 2017 &
W.M.P.Nos.25331 & 25332 of 2017

pvs(co)
aa13/10/2017



WEB COPY